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VIVIAN HAMMILL  
PRESIDENT

JILL SCHLICHTMANN  
VICE-PRESIDENT

NOTICE OF THE REGULAR MEETING OF THE SAN  
FRANCISCO RESIDENTIAL RENT STABILIZATION  
& ARBITRATION BOARD, Tuesday, 5:30 p.m.  
January 5, 1993

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25 Van Ness Avenue, #70, Lower Level  
\*\*\*\*\*

AGENDA

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FRANK M. JORDAN  
MAYOR

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

TIM CARRICO  
MAMIE HOW  
POLLY MARSHALL  
JAKE MCGOLDRICK  
MICHAEL ROSOFF  
DENICE STEPHENSON  
WILLIAM VILLA

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public
- V. Consideration of Appeals
  - A. 710 Hayes Street #5 N001-39A
- VI. Communications
- VII. Director's Report
- VIII. Consideration of Allegations of Wrongful Evictions
- IX. Old Business
  - A. Project Artaud
  - B. Trusts.
- IV. Remarks from the Public (cont.)
- X. New Business
- XI. Appeal Hearings
  - 6:00 2780 - 22nd Street N001-59R (acpt. 12/8/92)
  - 6:30 2837 - 23rd Street N001-10A (acpt. 12/1/92;  
post. from 12/15/92)
- XII. Calendar Items
- XIII. Adjournment

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FRANK M. JORDAN  
MAYOR

MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO  
RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD

Tuesday, January 5, 1993 at 5:30 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level

\*\*\*\*\*

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

VIVIAN HAMMILL  
PRESIDENT

JILL SCHLICHTMANN  
VICE-PRESIDENT

I. Call to Order

President Hammill called the meeting to order at 5:40 p.m.

TIM CARRICO  
MAMIE HOW  
POLLY MARSHALL  
JAKE MCGOLDRICK  
MICHAEL ROSOFF  
DENICE STEPHENSON  
WILLIAM VILLA

II. Roll Call

|                            |   |
|----------------------------|---|
| Commissioners Present:     | Hammill; Marshall;<br>McGoldrick; Rossoff;<br>Schlichtmann. |
| Commissioners not Present: | Stephenson; Villa.  |
| Staff Present:             | Grubb; Wolf.  |

Commissioner How appeared on the record at 5:42 p.m. Commissioner Carrico arrived at 5:45 p.m. and left the meeting at 7:20 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of December 15, 1992.  
(Rossoff/Marshall: 4-0)

IV. Consideration of Appeals

A. 710 Hayes St. #5 N001-39A

The tenant's petition alleging decreased housing services due to the lack of an adequate heater in his room was granted, and the landlord was found liable to the tenant in the amount of \$459.00. On appeal, the landlord claims that the space heater in the unit was removed due to a leak in the line, and not because it didn't work; and that there was no verifiable long-term notice sufficient to justify rent reductions for longer than one year prior to the filing of the petition.

MSC: To deny the appeal. (Rossoff/McGoldrick: 5-0)

V. Communications

The Commissioners received the following communications:

A. The final proposed Statutes of Limitation language.



B. A letter regarding Proposition H, which will be mailed to all San Francisco property owners during the week of January 11th.

VI. Director's Report

Executive Director Grubb informed the Board that the Parkmerced Corporation had withdrawn their settlement offer to the tenants, but he will check with the landlord's counsel regarding the current status of settlement negotiations.

VII. Old Business

The Commissioners discussed language drafted by Commissioner Marshall which would establish an exemption for non-profit public benefit corporations such as Project Artaud. The Director of the Project Artaud Board and its attorney spoke in favor of the proposed legislation; one resident of the complex spoke in favor of continued Rent Board jurisdiction. A Public Hearing will be scheduled for February 2nd at 6:00 p.m.

VIII. Appeal Hearings

A. 2780 - 22nd Street

N001-59R

The tenant appealed a capital improvement passthrough on the basis of financial hardship. At the time of the properly noticed hearing, neither the tenant nor his representative had appeared; the property owner was in attendance with her son. As the tenant is 97 years old and Spanish-speaking, the Executive Director placed a call to his son, who acts as his representative. The son stated that he had been hospitalized, and that the Notice of Hearing had been taken by a pick-pocket on Mission Street. The Commissioners therefore agreed to continue this case for one week, in order for the tenant's son to furnish proof of his hospitalization.

B. 2837 - 23rd Street

N001-10A

This case arose because of major renovation to the premises, which necessitated the eviction of the tenants for over a one-year period. The landlord's original petition for capital improvement certification was dismissed, because of his failure to appear. His appeal, which claimed a calendaring error, was denied without prejudice to re-filing.

The landlord re-petitioned, by which time the 10% annual cap on capital improvement passthroughs had become law. The result was certification of a \$30 monthly passthrough, with a carry-forward amount in excess of \$350.00. The landlord filed an untimely



appeal, alleging extraordinary circumstances such that the 10% cap should not be applied in this case, and claiming that he had interpreted the appeal deadline language as discretionary. The Board found no good cause for the late filing, and the Hearing Officer's decision therefore became final.

Upon receipt of a Stipulated Judgment and Order from Superior Court, the Board set aside their original decision in this case and voted to hold a hearing on the merits of the landlord's appeal, specifically to determine whether hardship and/or extraordinary circumstances should apply regarding imposition of the 10% cap.

The landlord appeared, accompanied by his attorney; the tenants appeared with their attorney and a translator. Testimony and evidence were taken regarding the landlord's financial circumstances. After discussion, the Commissioners agreed that balancing the equities required examining potential hardship to the tenants as well. The case was therefore continued until February 16, 1993; the parties will provide copies of their documentation to each other by February 1, 1993.

IX. Calendar Items

January 12, 1992

4 appeal considerations

Old Business: 2780 - 22nd St. N001-59R (cont. from 1/5/93)

Appeal Hearing:

6:00 Stonestown N001-64R thru N001-71R (acpt. 12/15/93)

January 19, 1993

2 appeal considerations

January 26, 1993 - NO MEETING

X. Adjournment

President Hamill adjourned the meeting at 8:05 p.m.



MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO  
RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARDTuesday, January 12, 1993 at 5:30 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level

\*\*\*\*\*

I. Call to Order

President Hammill called the meeting to order at 5:40 p.m.

II. Roll Call

|                            |   |
|----------------------------|---|
| Commissioners Present:     | Carrico; Hammill; Marshall;<br>Rossoff; Schlichtmann. |
| Commissioners not Present: | McGoldrick; Stephenson;<br>Villa.                     |
| Staff Present:             | Grubb; Wolf.  |

Commissioner How appeared on the record at 5:45 p.m.

III. Approval of the MinutesMSC: To approve the Minutes of January 5, 1993.  
(Marshall/Schlichtmann: 4-0)IV. Consideration of Appeals

A. 739 Haight St. #305 N001-40A

The tenant's petition alleging decreased housing services was granted, in part, and the landlord was found liable for \$880.00 in commensurate rent reductions. On appeal, the landlord alleges that the tenant failed to provide access in order for the repairs to be effectuated.

MSC: To remand the case for a new hearing on the issues  
raised in the appeal. (Carrico/How: 5-0)

B. 122 Dolores St. N001-72R

This case arose pursuant to a tenant's petition alleging an unlawful increase in rent on the part of a master tenant. The original decision held that the master tenant had failed to prove that the building was exempt due to owner occupancy, as the property is held in trust. Upon the master tenant's appeal, the Commissioners remanded the case on the issues of the trust and jurisdiction. On remand, the hearing officer held that, as the

owner-occupant had the necessary rights and responsibilities to qualify for ownership under the requirements of the Ordinance and Regulations, the building was exempt and outside of Rent Board jurisdiction. The tenant appeals the remand decision, asserting that her landlord is the master tenant, and the fact that the owner resides on the property is irrelevant.

MSC: To deny the appeal. (Marshall/Carrico: 5-0)

C. 1750 Vallejo St. #306 N001-04T

The tenant had received a PG&E passthrough in the same amount every year since 1982. The landlord discontinued the passthrough in February, 1992, conceding that the passthrough should have been recalculated each year or dropped. The landlord also refunded the tenant overcharges in the amount of \$70.56. The tenant then filed a petition regarding the propriety of the previous years' passthroughs, and alleging that the amount refunded was insufficient. The hearing officer denied the petition, as the Regulations only allow for challenge of a current passthrough, and there is no current passthrough at issue. The tenant appeals the decision, requesting that the Board rule on the legality of the prior passthroughs.

MSC: To deny the appeal. (How/Schlichtmann: 5-0)

D. 1100 Gough St. #11-E & 15-F N001-74R & N001-75R

The tenants' petitions alleging improper PG&E passthroughs and the landlords' failure to make requested repairs were denied by the hearing officer, as the PG&E passthrough was found to be correctly calculated, and the tenants failed to prove that the faulty elevator service constituted a code violation. On appeal, the tenants assert that the elevator problems have been well established in prior cases before the Board, and that the landlord should not be allowed any increases in rent until the elevator problems are remedied.

MSC: To deny the appeals except for a technical correction, if necessary. (Carrico/How: 5-0)

V. Communications

Communications received by the Commissioners all pertained to the Stonestown case on this evening's calendar.

VI. Director's Report

Executive Director Grubb reported as follows:

A. The Parkmerced Corporation's latest offer to

the tenants consists of a 25% reduction in the amount of the capital improvement passthrough for each tenant.

B. Due to a family emergency, the office is currently being staffed by only two out of four clericals.

C. The letter to property owners regarding Proposition H will be mailed this week or next Monday.

VII. Old Business

2780 - 22nd Street

N001-59 R (cont. from 1/5/93)

The tenant appealed a capital improvement passthrough on the basis of financial hardship. At the time of the properly noticed hearing, on January 5, 1993, neither the tenant nor his representative had appeared. As the tenant is 97 years old and Spanish-speaking, the Executive Director placed a call to his son, who acts as his representative. The son stated that he had been hospitalized, and that the Notice of Hearing had been taken by a pick-pocket on Mission Street. The Commissioners therefore agreed to continue this case for one week, in order for the tenant's son to furnish proof of his hospitalization. As no such evidence was submitted, the Board passed the below motion:

MSC: To dismiss the tenant's appeal; the hearing officer's decision is therefore final.  
(Schlichtmann/How: 5-0)

VIII. Remarks from the Public

The tenant appellant from the property at 122 Dolores Street inquired regarding protections for tenants in owner-occupied exempt buildings. Robert Pender, of the Parkmerced Tenants' Organization, thanked the Board and Executive Director Grubb for their efforts towards settlement of their case.

IX. Appeal Hearing

Stonestown

N001-64R through N001-71R

The landlord's petition for certification of capital improvement costs was granted by the hearing officer. Eight tenants appealed on the basis of financial hardship, and alleged that: some of the work should be considered operating and maintenance expenses; the passthrough has resulted in a decrease in services; and the passthrough violated the Rent Ordinance because long-term tenants now pay rents in excess of market rents. The appeals were accepted on the issue of tenant hardship; evidence would also be accepted on the issue of comparable rents of vacant units within the same complex.

The landlord's attorney appeared on behalf of the landlord, accompanied by representatives from the property's management; two tenants appeared, accompanied by their attorney. The tenants' attorney asked for a continuance because of the unavailability of three witnesses and two of the hardship appellants due to ill health and the inclement weather. The Commissioners decided to proceed on the individual hardship claims of the tenants in appearance. Therefore, testimony was taken from Shirley Bierly of 255 Buckingham Way #805; and Celia Yanish of 235 Buckingham Way #605. Attorney Ellen Lyons testified on behalf of tenants Frank and Irene Cernusco of 225 Buckingham Way #503. Landlords' attorney Joseph Bravo agreed to deferment of the passthroughs for tenants Bierly and Cernusco for one year, to be re-opened by either party should the tenants' financial circumstances change.

Upon conclusion of the testimony of the parties in appearance, the Commissioners agreed to continue this matter until 6:00 p.m. on February 9, 1993. The parties shall furnish all necessary documentation to the Board and each other by February 2, 1993.

X. New Business

The Executive Director informed the Board that staff has raised the problem of late submissions of supporting documents for appeals, which often require extensive photocopying at the last minute. The Commissioners expressed further concerns regarding their inability to sufficiently review documents that they receive the same night that the subject matter is before them. It was therefore agreed that it will be required that documentation be submitted one week prior, and appeal forms and notices will be revised to so state. Rebuttals to timely submissions will still be accepted prior to the appeal date.

XI. Calendar Items

January 19, 1993

2 appeal considerations

Old Business: Definition of Owner/Trusts

January 26, 1993 - NO MEETING

February 2, 1993

3 appeal considerations

6:00 Public Hearing: Project Artaud

XII. Adjournment

President Hammill adjourned the meeting at 7:35 p.m.





FRANK M. JORDAN  
MAYOR

VIVIAN HAMMILL  
PRESIDENT

JILL SCHLICHTMANN  
VICE-PRESIDENT

TIM CARRICO  
MAMIE HOW  
POLLY MARSHALL  
JAKE MCGOLDRICK  
MICHAEL ROSOFF  
DENICE STEPHENSON  
WILLIAM VILLA

NOTICE OF THE REGULAR MEETING OF THE SAN  
FRANCISCO RESIDENTIAL RENT STABILIZATION  
& ARBITRATION BOARD, Tuesday, 5:30 p.m.  
January 19, 1993

\*\*\*\*\*  
25 Van Ness Avenue, #70, Lower Level  
\*\*\*\*\*

AGENDA

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- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public
- V. Consideration of Appeals
  - A. 10 Crestline Dr. N001-76R
  - B. 1305-1/2 Castro St. N001-41A
- VI. Communications
- VII. Director's Report
- VIII. Old Business
  - Definition of Owner/Trusts
- IV. Remarks from the Public (cont.)
- IX. New Business
- X. Calendar Items
- XI. Adjournment

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MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO  
RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD

Tuesday, January 19, 1993 at 5:30 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level

\*\*\*\*\*

I. Call to Order

President Hammill called the meeting to order at 5:32 p.m.

II. Roll Call

|                            |   |
|----------------------------|---|
| Commissioners Present:     | Hammill; Rossoff;<br>Schlichtmann                       |
| Commissioners not Present: | Carrico; Marshall;<br>McGoldrick; Stephenson;<br>Villa. |
| Staff Present:             | Grubb; Ruiz.  |

Commissioner How appeared on the record at 5:40 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of January 12, 1993.  
(Rossoff/Schlichtmann: 3-0)

IV. Consideration of Appeals

A. 10 Crestline Drive

The tenant's petition alleging decreased housing services was granted, in part, and the landlord was found liable on the amount of \$700.00 due to an inoperable refrigerator. The tenant appeals, asserting that the hearing officer erred and abused her discretion in not granting a reduction in rent for other items.

MSC: To deny the appeal. (Rossoff/Schlichtmann: 3-0)

B. 1305 - 1/2 Castro St. N001-41A

This case arose pursuant to a tenant's petition alleging an unlawful increase in rent by the landlord, who claims that the property is not subject to the jurisdiction of the Rent Board because it contains two units and is owner-occupied. The Hearing Officer found that, as of the effective date of the rent increase, the building was still subject to the jurisdiction of the Rent Board and the landlord was liable for the sum of \$2,390.00. On appeal, the landlord alleges that the hearing officer: (1) erred in interpreting the law regarding a landlord's principal place of



residence; (2) abused her discretion by disregarding evidence submitted by the landlord; and (3) was motivated by racial and ethnic bias against him.

MSC: To deny the appeal. (Schlichtmann/Rossoff: 3-0)

V. Director's Report

Executive Director Grubb reported as follows:

A. Ilene Dick is the new Deputy City Attorney assigned to handle Rent Board matters.

B. He recommended to the Commissioners that the proposed Statutes of Limitation legislation be introduced by the department this week to the Board of Supervisors. The Commissioners accepted this recommendation.

C. Board election of officers will be scheduled for the first week in February.

D. Informational letters regarding Proposition H have been mailed to all owners of San Francisco residential property.

VI. Old Business

Commissioner Rossoff presented proposed changes to the Rules and Regulations regarding the status of owners holding title under a living trust, which would allow them exemption as owner-occupants. The Commissioners decided to continue this discussion to the next Board meeting.

VII. Calendar Items

January 26, 1993 - NO MEETING

February 2, 1993

3 appeal considerations

6:00 Public Hearing: Exemptions for Non-Profit Cooperatives

Old Business: Definition of Trusts, Parkmerced

New Business: Board Elections, Budget

February 9, 1993

6:00 Appeal Hearing: Stonestown N001-64R through N001-71R  
(cont. from 1/12/93)

New Business: Waivers/Exemption for Non-Profit Health-Related Housing

VIII. Adjournment

President Hammill adjourned the meeting at 6:30 p.m.







NOTICE OF THE REGULAR MEETING OF THE SAN  
FRANCISCO RESIDENTIAL RENT STABILIZATION  
& ARBITRATION BOARD, Tuesday, 5:30 p.m.  
FEBRUARY 2, 1993

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25 Van Ness Avenue, #70, Lower Level  
\*\*\*\*\*

AGENDA

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- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public
- V. Consideration of Appeals
  - A. 466 Frederick St. #4 N001-77R
  - B. 2323 Laguna St. #303 N001-78R
  - C. 308 Missouri St. N001-42A
- VI. Communications
- VII. Director's Report
- VIII. Old Business
  - 1. Definition of Trusts
  - 2. Parkmerced
- IV. Remarks from the Public (cont.)
- IX. New Business
  - 1. Board Elections
  - 2. Budget
- X. 6:00  
Public Hearing: Exemptions for Non-Profit  
Cooperatives
- XI. Calendar Items
- XII. Adjournment

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MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO  
RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD

Tuesday, February 2, 1993 at 5:30 p.m. at

25 Van Ness Avenue, Suite 70, Lower Level

\*\*\*\*\*

I. Call to Order

Vice-President Schlichtmann called the meeting to order at 5:45 p.m.

II. Roll Call

|                            |   |
|----------------------------|---|
| Commissioners Present:     | How; Marshall; McGoldrick;<br>Schlichtmann. |
| Commissioners not Present: | Hammill; Rossoff;<br>Stephenson; Villa.     |
| Staff Present:             | Wolf.                                       |

Commissioner Carrico appeared on the record at 5:50 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of January 19, 1993.  
(Marshall/How: 4-0)

IV. Consideration of Appeals

A. 466 Frederick St. #4 N001-77R

The tenant's appeal was filed 50 days late because she was out of town since early November, and she had expected the decision to be issued prior to her departure.

MSC: To find good cause for the late filing of the appeal. (Marshall/McGoldrick: 4-0)

The tenant's petition alleging the landlord's failure to perform requested repairs was granted, in part, by the hearing officer. The tenant appeals the portion of the decision denying her claim as to unsafe back stairs, as she disagrees with the hearing officer's conclusion that there was insufficient notice to the landlord. She also asserts that the landlord should not be entitled to banked increases for periods of time when the property was in disrepair.

MSC: To deny the appeal. (Marshall/Carrico: 5-0)

B. 2323 Laguna St. #303

N001-78R

The tenant's petition alleging decreased housing services and the landlord's failure to perform requested repairs was granted, in part, and the annual rent increase was deferred until continuing ceiling leaks were fully repaired. On appeal, the tenant asserts that: the annual increase should be disallowed, instead of deferred; when re-imposed, the increase should be at the rate of 1.6% instead of 4%; and the effective date of the increase should establish a new anniversary date for the imposition of the next allowable annual increase.

MSC: To deny the appeal. (Carrico/How: 5-0)

C. 308 Missouri St.

N001-42A

The landlord's petition for a rent increase due to increased operating expenses was granted, in part, by the hearing officer. On appeal, the landlord alleges that a technical correction to the decision regarding the amount of rent owed is necessary, and that certain expenses should not have been disallowed.

MSC: To deny the appeal except for the technical correction. (McGoldrick/Marshall: 5-0)

#### V. Communications

The Commissioners received the monthly workload statistics for December. The Board was also given a letter from Attorney Michael Hall proposing some Ordinance amendments, which will be on the calendar next week.

#### VI. Old Business

##### A. Definition of Trusts

The Board briefly discussed proposed changes to the Rules and Regulations drafted by Commissioner Rossoff, which would allow owners holding title under a living trust to qualify for owner-occupancy exemption and eviction. Deputy Director Wolf informed the Commissioners that Audrey Yee, an attorney specializing in estate planning, had agreed to discuss this issue with the Board at next week's meeting. Attorney Jean Turk of Legal Assistance to the Elderly was in attendance, and commented regarding her agency's concerns regarding the effects of any changes on elderly clients faced with eviction for owner occupancy.

##### B. Parkmerced

Deputy Director Wolf informed the Board that Parkmerced's latest offer of a 25% reduction in the amount of the capital improvement

passthrough will be taken up by the membership of the Parkmerced Residents' Organization (PRO) at their meeting on February 21st.

VII. New Business

A. Board Elections

Election of Board officers was continued to the February 16th meeting.

B. Budget

Deputy Director Wolf went over the agency's proposed '92 - '93 budget which, exclusive of salaries, contains a \$7,000 increase. Discussion of the budget will continue with Executive Director Grubb at next week's meeting.

VIII. Public Hearing

Six individuals testified at a Public Hearing on the issue of establishing an exemption for non-profit public benefit corporations such as Project Artaud. The Executive Director of the Project Artaud Corporation presented a survey showing that 86% of the residents are in favor of exemption. Two residents spoke against exemption, stating that they did not trust the Board of Directors to always act in the best interests of low-income residents. The Commissioners requested that the Executive Director submit Project Artaud's Articles of Incorporation and By-laws by February 9, 1993, so that the matter can be discussed further at the meeting of February 16, 1993.

IX. Calendar Items

February 9, 1993

3 appeal considerations

6:00 Appeal Hearing: Stonestown N001-64R through N001-71R  
(cont. from 1/12/93)

Old Business: Definition of Trusts; Budget

New Business: Waivers/Exemption for Non-Profit  
Health-related Housing

February 16, 1993

6:00 Appeal Hearing: 2837 - 23rd St. (M001-10A)  
(cont. from 1/5/93)

Old Business: Exemptions for Non-Profit Public Benefit  
Corporations

New Business: Election of Officers

X. Adjournment

Vice-President Schlichtmann adjourned the meeting at 7:40 p.m.







NOTICE OF THE REGULAR MEETING OF THE SAN  
FRANCISCO RESIDENTIAL RENT STABILIZATION  
& ARBITRATION BOARD, Tuesday, 5:30 p.m.  
February 9, 1993

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25 Van Ness Avenue, #70, Lower Level  
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AGENDA

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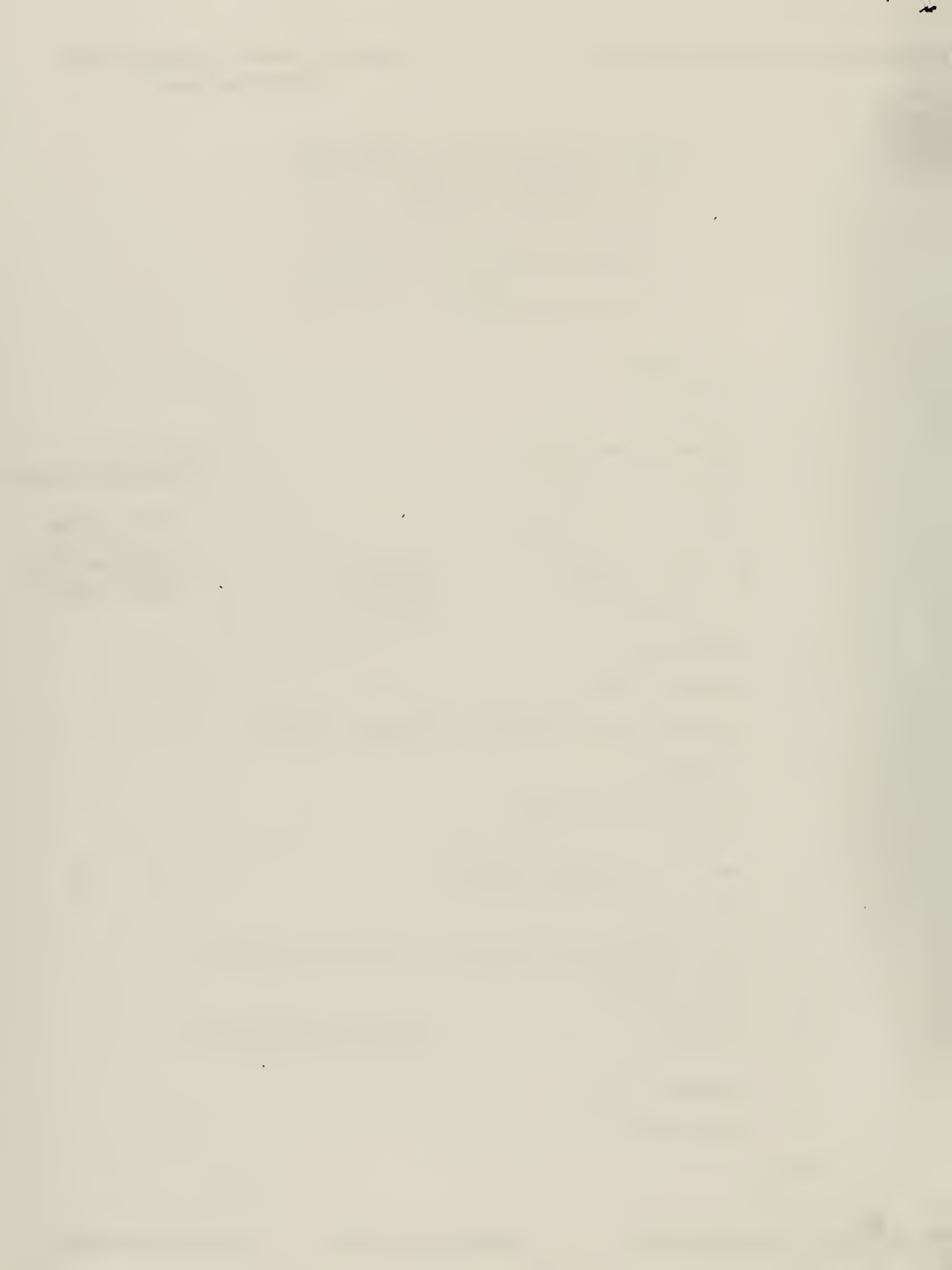
- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public
- V. Consideration of Appeals
  - A. 164-A Beacon St. N001-43A
  - B. 420 - 32nd Ave. N001-44A
  - C. 312 Mason St. N001-79R
- VI. Communications
- VII. Director's Report
- VIII. Consideration of Allegations of Wrongful Evictions
- IX. Old Business
  - A. Definition of Trusts
  - B. Budget
- IV. Remarks from the Public (cont.)
- X. New Business
  - Waivers/Exemption for Non-Profit Health-Related Housing
- XI. Appeal Hearing
- 6:00 Stonestown N001-64R through N001-71R  
(Cont. from 1/12/93)
- XII. Calendar Items
- IX. Adjournment

0227M

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## Residential Rent Stabilization and Arbitration Board



FRANK M. JORDAN  
MAYOR

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO  
RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD

Tuesday, February 9, 1993 at 5:30 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level

\*\*\*\*\*

VIVIAN HAMMILL  
PRESIDENT

JILL SCHLICHTMANN  
VICE-PRESIDENT

## I. Call to Order

President Hammill called the meeting to order at 5:40 p.m.

TIM CARRICO  
MAMIE HOW  
POLLY MARSHALL  
JAKE MCGOLDRICK  
MICHAEL ROSOFF  
DENICE STEPHENSON  
WILLIAM VILLA

## II. Roll Call

Commissioners Present: Carrico; Hammill; How;  
Marshall; Rossoff;  
Schlichtmann.

Commissioners not Present: McGoldrick; Stephenson;  
Villa.

Staff Present: Grubb; Wolf.

### III. Old Business

Attorney Audrey Yee from the firm of Moerschbaecher and Dryburgh discussed some possible changes to the Rules and Regulations which would allow owners holding title under a living trust to qualify for owner-occupancy exemption and eviction. Attorney Jean Turk of Legal Assistance to the Elderly again expressed her concerns regarding the effects of any changes on elderly clients faced with eviction for owner occupancy.

#### IV. Appeal Hearing

Stonestown . N001-64R through N001-71R  
(cont. from 1/12/93)

The landlord's petition for certification of capital improvement costs was granted by the hearing officer. Eight tenants appealed on the basis of financial hardship and the allegation that long-term tenants now pay rents in excess of market rents. The appeals were accepted on the issue of tenant hardship; evidence was also to be accepted on the issue of comparable rents of vacant units within the same complex.

At the first hearing on January 12, 1993, the landlord's attorney appeared on behalf of the landlord, accompanied by representatives from the property's management; two tenants appeared, accompanied by their attorney. Testimony regarding income and resources was taken from tenants Shirley Bierly of 255 Buckingham Way #805; and

Celia Yanish of 235 Buckingham Way #605. Attorney Ellen Lyons testified on behalf of tenants Frank and Irene Cernusco of 225 Buckingham Way #503. Landlords' attorney Joseph Bravo agreed to deferment of the passthroughs for tenants Bierly and Cernusco for one year, to be re-opened by either party should the tenants' financial circumstances change. The matter was continued until February 9, 1993 in order for additional documentation regarding individuals' hardship claims and evidence regarding comparable rents in the complex to be provided.

At the continued hearing on February 9, 1993, the landlord was represented by attorney Joseph Bravo and representatives from property management. Tenant James Bisbee was in appearance with his attorney, Ellen Lyons. Ms. Lyons informed the Commissioners that tenants Celia Yanish and Helen Berliner had withdrawn their appeals. Therefore, testimony was taken only regarding the hardship claim of tenant Bisbee. After review of the evidence, the Board passed the following motion:

MSC: To deny the tenant's appeal.  
(Schlichtmann/How: 5-0)

V. Approval of the Minutes

MSC: To approve the Minutes of February 2, 1993.  
(Marshall/Schlichtmann: 5-0)

VI. Consideration of Appeals

A. 164-A Beacon St. N001-43A

The tenant's petition alleging decreased housing services was granted, and the landlord was found liable in the amount of \$340.00 due to a raw sewage spill and plumbing problems related to the toilet. On appeal, the landlord maintains that the finding of decreased housing services is not supported by the evidence and that a \$30.00 per day rent reduction is clearly excessive.

MSC: To accept the appeal and remand the case to the same hearing officer on the issues of the amount of the reduction for the sewage backup and the duration of the reduction for the toilet problem.  
(Carrico/How: 5-0)

B. 420 - 32nd Ave. N001-44A

The tenants' petition alleging numerous decreases in housing services was granted, in part, by the hearing officer and the landlord was found liable in the amount of \$1,200.26 to the tenants. On appeal, the landlord asserts that the property is  
0229M

exempt from Rent Board jurisdiction because it is new construction as defined in the Ordinance.

Upon discussion, it was the consensus of the Board to continue this case for one week in order for the landlord to submit the Certificate of Occupancy and Final Completion for the building.

C. 312 Mason St.

N001-79R

The tenant's petition alleging decreased housing services due to a defective bed and television was denied by the hearing officer. On appeal, the tenant asserts that the hearing officer erred in finding that the television was "thrown-in" as an incentive to get the tenant to move to another floor, but that no commitment was made to keep it in working order. The tenant instead maintains that the TV was provided as a permanent feature of his unit.

MSC: To deny the appeal. (How/Schlichtmann: 4-1;  
Marshall dissenting)

#### VII. Communications

The Commissioners received the decision in the case at 2780 - 22nd Street (N001-59R), which was approved by the Board and signed by President Hammill.

#### VIII. Director's Report

Executive Director Grubb informed the Commissioners that the proposed Statutes of Limitation amendments to the Ordinance will be considered by the Board of Supervisors' Housing Committee on February 18, 1993. He also discussed the fact that Supervisor Hallinan's legislation regarding legalization of in-law units will also be introduced that same day, and there could be problems with certain overlapping sections in the amendments.

#### IX. New Business

The Commissioners briefly discussed a letter from Attorney Michael Hall, proposing amendments to the Ordinance that would allow waivers by tenants of certain rights under the Ordinance when approved by Rent Board hearing officers, in order to facilitate settlement agreements. He also proposed exemption for some Non-Profit Health-Related Housing programs, and a related letter from Attorney Susan O'Neill echoed the problems that the Salvation Army experiences with eviction from their substance abuse facilities upon the completion of the rehabilitation program.

X. Calendar Items

February 16, 1993

- 6:00 1 appeal consideration (cont. from 2/9/93)  
Appeal Hearing: 2837 - 23rd St. (M001-10A)  
(cont. from 1/5/93)  
Old Business: Exemption for Non-Profit Public Benefit  
Corporations  
Stonestown (N001-64R through N001-71R)  
(heard 2/9/93)  
New Business: Election of Officers

February 23, 1993 - NO MEETING

XI. Adjournment

President Hammill adjourned the meeting at 7:15 p.m.





FRANK M. JORDAN  
MAYOR

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

NOTICE OF THE REGULAR MEETING OF THE SAN  
FRANCISCO RESIDENTIAL RENT STABILIZATION  
& ARBITRATION BOARD, Tuesday, 5:30 p.m.  
February 16, 1993

\*\*\*\*\*

25 Van Ness Avenue, #70, Lower Level  
\*\*\*\*\*

AGENDA

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VIVIAN HAMMILL  
PRESIDENT

JILL SCHLICHTMANN  
VICE-PRESIDENT

TIM CARRICO  
MAMIE HOW  
POLLY MARSHALL  
JAKE MCGOLDRICK  
MICHAEL ROSOFF  
DENICE STEPHENSON  
WILLIAM VILLA

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public
- V. Consideration of Appeal
  - A. 420 - 32nd Ave N001-44A (cont. from 2/9/93)
- VI. Communications
- VII. Director's Report
- VIII. Consideration of Allegations of Wrongful Evictions
- IX. Old Business
  - A. Exemption for Public Benefit Non-Profit Corporations (Project Artaud)
  - B. Stonestown N001-64R thru N001-71R (heard 2/9/93)
- IV. Remarks from the Public (cont.)
- X. New Business
  - Election of Officers
- XI. Appeal Hearing
  - 6:00 2837 - 23rd Street M001-10A (cont. from 1/5/93)
- XII. Calendar Items
- IX. Adjournment

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FRANK M. JORDAN  
MAYOR

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO  
RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD

Tuesday, February 16, 1993 at 5:30 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level

\*\*\*\*\*

VIVIAN HAMMILL  
PRESIDENT

JILL SCHLICHTMANN  
VICE-PRESIDENT

I. Call to Order

President Hammill called the meeting to order at 5:40 p.m.

II. Roll Call

TIM CARRICO  
MAMIE HOW  
POLLY MARSHALL  
JAKE MCGOLDRICK  
MICHAEL ROSOFF  
DENICE STEPHENSON  
WILLIAM VILLA

|                            |  |
|----------------------------|--|
| Commissioners Present:     | Hammill; How; Marshall;<br>McGoldrick; Rossoff;<br>Schlichtmann. |
| Commissioners not Present: | Carrico; Stephenson; Villa.                                      |
| Staff Present:             | Grubb; Wolf.   |

III. Approval of the Minutes

MSC: To approve the Minutes of February 9, 1993.  
(How/Rossoff: 5-0)

IV. Remarks from the Public

Ellen Lyons, Attorney with Legal Assistance for the Elderly, expressed her feeling that hearing officers provide landlords with opportunities to perfect their petitions, and that a commensurate effort is not made on behalf of tenants.

V. Consideration of Appeal

420 - 32nd Ave. N001-44A (cont. from 2/9/93)

The tenants' petition alleging numerous decreases in housing services was granted, in part, by the hearing officer and the landlord was found liable in the amount of \$1,200.26 to the tenants. On appeal, the landlord asserts that the property is exempt from Rent Board jurisdiction because it is new construction as defined in the Ordinance. The Board continued this case for one week in order for the landlord to submit the Certificate of Occupancy and Final Completion for the building. The landlord furnished the requisite documentation, showing that construction commenced in 1986 and was completed in 1987.



MSC: To accept the landlord's appeal and vacate the hearing officer's decision due to lack of jurisdiction.  
(Rossoff/How: 5-0)

VI. Communications

The Board received a letter from Attorney Robert De Vries, representing the Parkmerced Residents' Organization, regarding the pending appeal of a capital improvement passthrough.

VII. Director's Report

Executive Director Grubb informed the Commissioners that he has been informed by the Mayor's Office that a new Board will be appointed during the first or second week in March.

VIII. Old Business

A. Exemption for Public Benefit Non-Profit Corporations (Project Artaud)

On February 2, 1993, the Board held a Public Hearing on the issue of establishing an exemption for non-profit public benefit corporations such as Project Artaud. At that time, the Commissioners requested that the Executive Director of Project Artaud submit the Articles of Incorporation and By-laws for the project. Upon review of the documents and after discussion, the Board passed the following motion:

MSC: To support the following change to Section 37.2(p)(2) of the Rent Ordinance (new language is underlined): "dwelling units in non-profit cooperatives, owned, occupied and controlled by a majority of the residents or dwelling units solely owned by a non-profit public benefit corporation governed by a board of directors the majority of which are residents of the dwelling units and where it is required in the corporate by-laws that rent increases be approved by a majority of the residents. (Rossoff/Schlichtmann: 4-1; McGoldrick dissenting)

B. Stonestown

NO01-64R through NO01-71R  
(heard 2/9/93)

The landlord's petition for certification of capital improvement costs was granted by the hearing officer. Eight tenants appealed on the basis of financial hardship and the allegation that long-term tenants now pay rents in excess of market rents. The appeals were accepted on the issue of tenant hardship; evidence was also to be accepted on the issue of comparable rents of vacant units within the same complex.

0231M



At the first Board hearing on January 12, 1993, the landlord stipulated to deferment of the passthrough for two tenants; prior to the hearing, one tenant had withdrawn her appeal. At the continued Board hearing on February 9, 1993, the Commissioners were informed that two additional tenants had withdrawn their appeals, and the Board voted to deny one tenant's appeal.

At the February 16, 1993 meeting, the Deputy Director informed the Commissioners that two tenant appeals remained unresolved. Therefore, after discussion, the Board passed the below motions:

- MSC: Regarding tenant Livia Korpel at 335 Buckingham Way #603, the capital improvement passthrough is deferred for one year, to be re-opened by either party should the tenant's financial circumstances change. (Rossoff/Marshall: 5-0)
- MSC: Regarding tenant Mary O'Rourke at 265 Buckingham Way #203, the appeal on the issue of comparable rents is denied. (Schlichtmann/How: 4-1; Marshall dissenting)

IV. Remarks from the Public (cont.)

Michael Harney of the Tenants' Union commented that he believed that large capital improvement passthroughs would be receiving more attention from the press from now on.

IX. New Business

Election of Officers

By acclamation, Commissioner Schlichtmann was elected Board President and Commissioner Marshall was elected Vice-President.

X. Appeal Hearing

As there is a settlement pending, the case at 2837 - 23rd Street (M001-10A) was taken off calendar.

XI. Calendar Items

February 23, 1993 - NO MEETING

March 2, 1993  
1 appeal consideration

March 9, 1993 - NO MEETING

XII. Adjournment

President Hammill adjourned the meeting at 6:45 p.m.





# City and County of San Francisco

## Residential Rent Stabilization and Arbitration Board



VIVIAN HAMMILL  
PRESIDENT

JILL SCHLICHTMANN  
VICE-PRESIDENT

FRANK M. JORDAN  
MAYOR

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

NOTICE OF THE REGULAR MEETING OF THE SAN  
FRANCISCO RESIDENTIAL RENT STABILIZATION  
& ARBITRATION BOARD, Tuesday, 5:30 p.m.  
March 2, 1993

\*\*\*\*\*

25 Van Ness Avenue, #70, Lower Level  
\*\*\*\*\*

### AGENDA

\*\*\*\*\*

TIM CARRICO  
MAMIE HOW

POLLY MARSHALL

JAKE MCGOLDRICK

MICHAEL ROSOFF

DENICE STEPHENSON

WILLIAM VILLA

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public
- V. Consideration of Appeals
  - A. 190 Funston St. #304
- VI. Communications
- VII. Director's Report
- VIII. Consideration of Allegations of Wrongful Evictions
- IX. Old Business
- IV. Remarks from the Public (cont.)
- X. New Business
- XI. Calendar Items
- XII. Adjournment

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MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO  
RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD

Tuesday, March 2, 1993 at 5:30 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level

\*\*\*\*\*

I. Call to Order

Commissioner How called the meeting to order at 5:35 p.m.

II. Roll Call

|                            |  |
|----------------------------|--|
| Commissioners Present:     | How; McGoldrick; Stephenson.               |
| Commissioners not Present: | Hammill; Marshall;<br>Schlichtmann; Villa. |
| Staff Present:             | Grubb; Ruiz.                               |

Commissioner Carrico appeared on the record at 6:41 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of February 16, 1993.  
(McGoldrick/Stephenson: 3-0)

IV. Consideration of Appeal

190 Funston Street #304

N001-45A

The tenant's petition alleging unlawful rent increases was granted and the landlord was found liable to the tenant for rent overpayments totalling \$18,074.16, resulting from rent increases on a garage given at a different time than annual increases for the rental unit from May 1982 to January 1993. On appeal, the landlord makes the following arguments: (1) the tenant's garage rental was the subject of a separate agreement and therefore is not subject to the limitations of the Rent Ordinance; (2) the hearing officer erred in combining the base rent for the dwelling unit and the garage, which resulted in an incorrect calculation of rent overpayments; (3) the decision is in violation of California Civil Code Section 1947.7 because the landlord acted in good faith; (4) the amount owing would subject the landlord to financial hardship; and (5) the decision could result in landlords renting garages only to individuals who are not tenants in their building.

MSC: To accept the landlord's appeal in the interests  
of fairness and justice and on hardship only.  
(McGoldrick/Stephenson: 4-0)

V. Director's Report

A. The Commissioners received a packet of the text for the new auto-attendant phone message system for the Rent Board that went on-line in February 1993. The Executive Director explained the operation of the system.

B. Executive Director Grubb informed the Commissioners that the proposed Statutes of Limitation amendments to the Ordinance will be considered by the Board of Supervisors' Land Use Committee on March 4, 1993, as a continued item from February 18, 1993.

VI. Calendar Items

March 9, 1993 - NO MEETING

March 16, 1993

4 appeal considerations

6:00 Appeal Hearing: 190 Funston St. #304 N001-45A  
(acpt. 3/2/93)

VII. Adjournment

Commissioner How adjourned the meeting at 6:01 p.m.



NOTICE OF THE REGULAR MEETING OF THE SAN  
FRANCISCO RESIDENTIAL RENT STABILIZATION  
& ARBITRATION BOARD, Tuesday, 5:30 p.m.

March 16, 1993

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25 Van Ness Avenue, #70, Lower Level

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AGENDA

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- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public
- V. Consideration of Appeals
  - A. Parkmerced N001-24R through N001-46R  
(Cont. from 12/1/92)
  - B. 240 Judson Ave. #B N001-46A
  - C. 1915 Fulton St. N001-47A
  - D. 935 Geary St. N001-48A
- VI. Communications
- VII. Director's Report
- VIII. Consideration of Allegations of Wrongful Evictions
- IX. Old Business
- IV. Remarks from the Public (cont.)
- X. New Business
- XI. Appeal Hearing
  - 6:00 190 Funston St. #304 N001-45A (acpt. 3/2/93)
- XII. Calendar Items
- IX. Adjournment

0233M





MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO  
RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD  
Tuesday, March 16, 1993 at 5:30 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level  
\*\*\*\*\*

I. Call to Order

President Schlichtmann called the meeting to order at 5:35 p.m.

II. Roll Call

Commissioners Present: Hammill; How; Marshall;  
Rossoff; Schlichtmann.  
Commissioners not Present: Carrico; McGoldrick;  
Stephenson; Villa.  
Staff Present: Grubb; Wolf.

Commissioner Marshall left the meeting at 6:25 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of March 2, 1993.  
(How/Hammill: 4-0; Rossoff abstaining)

IV. Consideration of Appeals

A. Parkmerced N001-24R through N001-46R;  
N001-57R (cont. from 12/1/92)

The tenant at 601 Font Boulevard (N001-57R) filed her appeal 28 days late because she was out of town at a daughter's home.

MSC: To find good cause for the late filing of the  
appeal. (Marshall/Hammill: 5-0)

The landlord's petition for certification of the costs of installing new windows to 39 units was granted, in part, by the hearing officer. On appeal, the tenants in 24 units object to the passthroughs, variously claiming that: the work was necessitated by the landlord's deferred maintenance resulting in code violations; the interest rate is usurious; notice was defective and the landlord's petition was too complex for the tenants to understand; some tenants objected to the installation of new windows in their unit, and the landlord failed to establish that the work was necessary due to reasons of health or safety or excessive maintenance costs; the work should be considered





"maintenance", and not a capital improvement; tenants should not have to pay for work that is required by law and more work was done than was actually required; and some tenants were afraid to come forward. The tenant at 319 Arballo Drive (N001-44R) also alleged that she was given an illegal rent increase in 1991. These appeals were continued from the meetings of November 10, 1992 and December 1, 1992 in order for the parties to explore settlement possibilities, which have failed to date.

MSC: To accept the tenants' appeals and remand for consolidated hearing on April 26, 1993 at 9:00 a.m. without further notice as follows:

On the issue of the landlord's alleged deferred maintenance resulting in a code violation: units 303 Arballo (N001-24R); 205 Arballo (N001-25R); 4 Pinto (N001-26R); 217 Arballo (N001-27R); 6 Pinto (N001-28R); 102 Tapia (N001-29R); 309 Arballo (N001-30R); 221 Arballo (N001-31R); 331 Arballo (N001-32R); 18 Pinto (N001-33R); 611 Font (N001-34R); 8 Pinto (N001-35R); 24 Pinto (N001-36R); 305 Arballo (N001-37R); 28 Pinto (N001-38R); 100 Tapia (N001-39R); 231 Arballo (N001-40R); 311 Arballo (N001-41R); 227 Arballo (N001-42R); 329 Arballo (N001-43R); 319 Arballo (N001-44R); 315 Arballo (N001-45R); and 14 Pinto (N001-46R); and 601 Font (N001-57R).

On the issue of tenant objections to improvements in individual units which the landlord has allegedly failed to prove were necessitated by health or safety reasons or excessive maintenance costs: units 303 Arballo (N001-24R); 102 Tapia (N001-29R); and 315 Arballo (N001-45R).

On the issue of an alleged illegal rent increase: unit 319 Arballo (N001-44R).

The appeals are denied as to all other issues raised. (Marshall/Schlichtmann: 5-0)

B. 240 Judson Ave. #B N001-46A

The landlord's appeal was filed thirteen months late, because he claims not to have received notice of the hearing nor the hearing officer's decision. He asserts that the tenants intentionally provided the Board with an incorrect address. However, he came into the Rent Board office to review the file and decision in January, 1993, and failed to file an appeal until February 17, 1993. He maintains that the further untimeliness was because he needed to consult with his attorney. ..



MSC: To find no good cause for the late filing of the appeal. (How/Rossoff: 5-0)

C. 1915 Fulton St. N001-47A

The landlords' petition for rent increases due to capital improvement costs and increased operating expenses was dismissed, due to the landlords' failure to appear. On appeal, the landlords' representative asserts that he was required to appear as a witness in a court proceeding, and provides evidence of such scheduling conflict. He does not, however, provide any information as to why he failed to properly request a postponement of the hearing or otherwise contact the Board.

MSC: To accept the appeal and remand the case for a new hearing. (Rossoff/How: 4-1; Marshall dissenting)

D. 935 Geary St. N001-47A & N001-80R

Thirty-seven tenants filed petitions alleging decreased housing services due to the lack of reliable elevator service, among other issues. Eighteen petitions were dismissed due to the tenants' failure to appear or send an authorized representative to the hearing. Nineteen tenants were granted rent reductions to correspond with the reduction in elevator service. On appeal, the landlord alleges that the elevators have been operating on a consistent basis since January 1, 1993, and that the hearing officer allowed rent reductions for two additional months.

One tenant appeals the dismissal of his petition due to his failure to appear, maintaining that he did not receive notice of the hearing. He submits a Declaration of Non-Receipt of Notice of Hearing to substantiate his claim.

MSC: To deny the landlord's appeal. (Marshall/Hammill: 5-0)

MSC: To accept the tenant's appeal and remand the case for a new hearing on that tenant's petition only. (Rossoff/Hammill: 5-0)

V. Director's Report

The Executive Director provided the Commissioners with the final Statutes of Limitation legislation, which was passed unanimously by the full Board of Supervisors at its first reading on Monday, March 15, 1993.



VI. Appeal Hearing

190 Funston Street #304

N001-45A

The tenant's petition alleging unlawful rent increases was granted and the landlord was found liable to the tenant for rent overpayments totalling \$18,074.16, resulting from rent increases on a garage given at a different time than annual increases for the rental unit from May 1982 to January 1993. The landlord's appeal was accepted in the interests of fairness and justice and on hardship only.

At the hearing, the landlord appeared with his attorney; the tenant appeared with her son, who acted as her representative. Testimony focused on the understanding of the parties regarding the rent history for the garage and for the apartment. After discussion, the Board passed the following motion:

MSC: To order the landlord to refund only the actual overpayments made for increases on the garage in excess of limitations, with no allowance for banking of increases not taken on the garage; any rent amounts that the tenant may owe to the landlord for February and March 1993 by having paid the reduced base rent amount specified in the hearing officer's decision need not be paid to the landlord, and to establish a new base rent of \$726.14 as of February 1, 1993. (How/Hamill: 4-0)

VII. New Business

The Executive Director provided the Commissioners with copies of three pieces of proposed legislation before the State legislature. Mr. Grubb will forward the Board's recommendations to the City's representative in Sacramento.

VIII. Calendar Items

March 23, 1993 - NO MEETING

March 30, 1993 - NO MEETING

April 6, 1993

2 appeal considerations

1 eviction consideration

IX. Adjournment

President Schlichtmann adjourned the meeting at 7:35 p.m.





NOTICE OF THE REGULAR MEETING OF THE SAN  
FRANCISCO RESIDENTIAL RENT STABILIZATION  
& ARBITRATION BOARD, Tuesday, 5:30 p.m.  
April 6, 1993

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25 Van Ness Avenue, #70, Lower Level  
\*\*\*\*\*

AGENDA

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- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public
- V. Consideration of Appeals
  - A. 768 Clementina St. N001-82R
  - B. 2760 - 22nd St. N001-49A
- VI. Communications
- VII. Director's Report
- VIII. Consideration of Allegations of Wrongful Evictions
  - 100-1/2 Sickles Ave. #B N001-67E; N003-27T
- IX. Old Business
- IV. Remarks from the Public (cont.)
- X. New Business
- XI. Calendar Items
- XII. Adjournment

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FRANK M. JORDAN  
MAYOR

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO  
RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD

Tuesday, April 6, 1993 at 5:30 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level

\*\*\*\*\*

VIVIAN HAMMILL  
PRESIDENT

JILL SCHLICHTMANN  
VICE-PRESIDENT

I. Call to Order

President Schlichtmann called the meeting to order at 5:38 p.m.

TIM CARRICO  
MAMIE HOW  
POLLY MARSHALL  
JAKE MCGOLDRICK  
MICHAEL ROSSOFF  
DENICE STEPHENSON  
WILLIAM VILLA

II. Roll Call

|                            |  |
|----------------------------|--|
| Commissioners Present:     | Carrico; Hammill; Marshall;<br>Schlichtmann. |
| Commissioners not Present: | McGoldrick; Rossoff;<br>Stephenson; Villa.   |
| Staff Present:             | Grubb; Ruiz.                                 |

Commissioner How appeared on the record at 6:44 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of March 16, 1993.  
(Hammill/Marshall: 4-0)

IV. Consideration of Appeals

A. 768 Clementina St. N001-82R

The tenant's petition alleging decreased housing services was granted, in part, by the hearing officer and the landlord was found liable in the amount of \$905.00 to the tenant. The tenant appeals portions of the findings of fact of the decision, and questions when the landlord actually paid for the replacement of the windows.

MSC: To deny the appeal. (Carrico/Marshall: 4-0)

B. 2760 - 22nd St. N001-49A

The landlord's petition for certification of the costs of installing a water heater and two items of plumbing work was granted, in part, by the hearing officer. The cost of \$1,831.00 for gas piping was denied because the work was commenced within six months of the tenants' move into the unit. On appeal, the landlord requests that Section 7.12(b) of the Rules and Regulations be waived and the passthrough for this expense be allowed in the interest of justice because the plumbing

renovation resulted from an unforeseen gas leak. He also asserts that the current rent is \$904.80 instead of \$905.00, and therefore the rent increase was not rounded up.

MSC: To accept the landlord's appeal in the interest of justice to consider the waiver of Rules and Regulations Section 7.12(b) as it applies to the gas piping work because, due to unforeseen circumstances, the work began within six months of the commencement of the tenancy.  
(Carrico/Marshall: 5-0)

V. Director's Report

The Director reported on the following items:

A. Statute of Limitations legislation will be heard again at the Housing and Land Use Committee on April 15th at 2:00 p.m.

B. Supervisor Achtenberg's "Sunshine" Law proposal and its impact was discussed.

C. The Commissioners were informed that the Conflict of Interest reports are due by April 10th.

VI. Consideration of Allegations of Wrongful Evictions

A. 100 - 1/2 Sickles N001-67E; N003-27T

The tenant filed a Report of Alleged Wrongful Eviction alleging that she vacated her unit so that the landlord could renovate the premises; that the landlord did not pay her relocation costs; that he did not allow her to reoccupy the unit after the was completed; and, that she was constructively evicted by the landlord. The eviction notices were procedurally defective and invalid. The tenant also filed a petition alleging a substantial decrease in housing services without a corresponding reduction in rent for the rent differential between her former unit and her replacement unit due to the fact that she vacated the premises in order for the landlord to carry out capital improvements or rehabilitation work.

RECOMMENDATION: That the Board write the landlord a strongly-worded letter informing him that his actions in this matter constitute a wrongful eviction and that unless proper restitution is made to the tenant, this matter will be referred to the District Attorney for possible criminal prosecution.

B. 288 Guerrero St. N001-68E

This is a nuisance case in which the tenants' roommates and the landlord attempted to evict the tenant due to the unsanitary

condition of his room and his person, and the unauthorized entry by the tenant into the roommates' rooms. The tenant admits that due to his illness he was not always able to take care of himself or maintain his room in a sanitary condition. The notices to vacate served upon the tenant by his roommates and the landlord did not meet the requirements of the Rent Ordinance.

RECOMMENDATION: That the Eviction Unit send a letter to the roommates and the landlord cautioning them against such actions in the future and instructing them to familiarize themselves with the applicable laws in dealing with any tenant.

The Commissioners accepted the recommendations of the Eviction Unit Supervisor on the above cases.

C. The Rent Board Supervisor, Mr. Pedro J. Ruiz, reported to the Commissioners on the status of one of the cases referred to the District Attorney's Office, which is being considered for possible criminal prosecution.

VII. Calendar Items

April 13, 1993

3 appeal considerations

April 20, 1993 - NO MEETING

April 27, 1993 - NO MEETING

May 4, 1993

3 appeal considerations

6:00 Appeal Hearing: 2760 - 22nd St. NO01-49A (acpt. 4/6/93)  
3 appeal considerations

IV. Adjournment

President Schlichtmann adjourned the meeting at 6:20 p.m.





VIVIAN HAMMILL  
PRESIDENT

JILL SCHLICHTMANN  
VICE-PRESIDENT

NOTICE OF THE REGULAR MEETING OF THE SAN  
FRANCISCO RESIDENTIAL RENT STABILIZATION  
& ARBITRATION BOARD, Tuesday, 5:30 p.m.  
April 13, 1993

\*\*\*\*\*  
25 Van Ness Avenue, #70, Lower Level  
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AGENDA

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FRANK M. JORDAN  
MAYOR

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

TIM CARRICO  
MAMIE HOW  
POLLY MARSHALL  
JAKE MCGOLDRICK  
MICHAEL ROSOFF  
DENICE STEPHENSON  
WILLIAM VILLA

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public
- V. Consideration of Appeals
  - A. 1229 Folsom St. N001-81R
  - B. 105 Edinburgh St. N001-50A
  - C. 1310 Jones St. #803 N001-83R
- VI. Communications
- VII. Director's Report
- VIII. Consideration of Allegations of Wrongful Evictions
- IX. Old Business
- IV. Remarks from the Public (cont.)
- X. New Business
- XI. Calendar Items
- XII. Adjournment

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### *Accessible Meeting Policy*

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VIVIAN HAMMILL  
PRESIDENT

JILL SCHLICHTMANN  
VICE-PRESIDENT

TIM CARRICO  
MAMIE HOW  
POLLY MARSHALL  
JAKE MCGOLDRICK  
MICHAEL ROSOFF  
DENICE STEPHENSON  
WILLIAM VILLA

MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO  
RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD  
Tuesday, April 13, 1993 at 5:30 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level

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FRANK M. JORDAN  
MAYOR

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

I. Call to Order

President Schlichtmann called the meeting to order at 5:40 p.m.

II. Roll Call

|                            |   |
|----------------------------|---|
| Commissioners Present:     | Carrico; How; Marshall;<br>Schlichtmann.            |
| Commissioners not Present: | Hammill; McGoldrick;<br>Rossoff; Stephenson; Villa. |
| Staff Present:             | Grubb; Wolf.  |

III. Approval of the Minutes

MSC: To approve the Minutes of April 6, 1993.  
(Carrico/How: 4-0)

IV. Remarks from the Public

Alma Jean Caldwell, a member of the public who has a case currently pending before the Board, inquired as to the timelines for issuance of hearing officer decisions.

V. Consideration of Appeals

A. 1229 Folsom Street N001-81R

The tenant's petition alleging decreased housing services was granted, in part, by the hearing officer. The landlord was found liable to the tenant in the amount of \$900 due to water leaks in the unit, noxious fumes resulting from interior painting, and a water faucet providing an inadequate water supply. The tenant's other complaints were found to be not substantial, not proved by the tenant, not noticed to the landlord, or repaired within a reasonable period of time. On appeal, the tenant maintains that: the leaking has reappeared; the hearing officer was mistaken as to the date of verifiable notice regarding the water faucet; notice was given as to all repair items; and it was the landlord who failed to keep repair appointments.



MSC: To accept the tenant's appeal regarding the date of notice for the water faucet problem and correct the decision on the record, without further hearing; to deny the tenant's appeal as to all other issues. (Carrico/How: 4-0)

B. 105 Edinburgh Street N001-50A

The tenant's petition alleging substantially decreased housing services and an unlawful increase in rent was granted, in part, by the hearing officer. The landlord was found liable to the tenant in the amount of \$3,500 due to rent overpayments and \$805 due to leaks in the kitchen and bathroom. The landlord appeals on the bases that: there was no rental agreement proving the original base rent amount; the tenant agreed to the rent increases, which were explained to her in Spanish; the tenant petitioner, though residing in the unit, was not a party to the rental agreement; and all outstanding repairs will be made.

MSC: To deny the appeal. (Marshall/How: 4-0)

C. 1310 Jones Street #803 N001-83R

The tenant filed a petition alleging a substantial decrease in housing services and an unlawful rent increase due to an increase in guest parking charges in the building. Several other tenants in the building prevailed on the same allegation, and the hearing officer granted rent reductions commensurate with the number of times the guest parking was used by the tenant. The instant tenant's petition was dismissed due to her failure to appear at the hearing. On appeal, the tenant asserts that she was ill the day of the hearing and that a letter she sent to that effect was not correctly placed in the file.

Due to the expectation of settlement in this case, it was the consensus of the Board to continue this matter pending withdrawal of the tenant's appeal.

#### VI. Communications

The Commissioners received the Board's decision in the case at 190 Funston Street #304 (N001-45A), which was approved and signed by President Schlichtmann.

#### VII. Director's Report

Executive Director Grubb reported as follows:

A. Commissioners' Conflict of Interest Statements were due on April 10th.



B. Legislation being introduced by Assembly Member Conroy apparently would require tenants in communities with rent control to pay income taxes on the differential between their stabilized rental amount and the "fair market value" of the property.

C. In order to generate sufficient revenue to fund next year's budget for the agency, a raise in the rental unit fee from \$8.00 to \$10.00 is being forwarded to the Board of Supervisors. This is the final revision of the \$9.75 amount discussed with the budget at the February 2nd meeting.

D. In compliance with the Americans with Disabilities Act, the reverse side of Board meeting agendas now have information regarding the Department's ability to accommodate special requests for services in the areas of sight and sound enhancement. The Board's offices and Commission meeting room are also wheelchair accessible.

VIII. Calendar Items

April 20, 1993 - NO MEETING

April 27, 1993 - NO MEETING

May 4, 1993

6 appeal considerations

6:00 Appeal Hearing: 2760 - 22nd St.      N001-49A (acpt. 4/6/93)

May 11, 1993 - NO MEETING

IX. Adjournment

President Schlichtmann adjourned the meeting at 6:20 p.m.





VIVIAN HAMMILL  
PRESIDENT

JILL SCHLICHTMANN  
VICE-PRESIDENT

NOTICE OF THE REGULAR MEETING OF THE SAN  
FRANCISCO RESIDENTIAL RENT STABILIZATION  
& ARBITRATION BOARD, Tuesday, 5:30 p.m.  
May 4, 1993

\*\*\*\*\*

25 Van Ness Avenue, #70, Lower Level  
\*\*\*\*\*

AGENDA

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FRANK M. JORDAN  
MAYOR

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

TIM CARRICO

MAMIE HOW

POLLY MARSHALL

JAKE MCGOLDRICK

MICHAEL ROSOFF

DENICE STEPHENSON

WILLIAM VILLA

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public
- V. Consideration of Appeals

- |    |                      |                        |
|----|----------------------|------------------------|
| A. | 1541-1543 - 15th St. | N001-51A               |
| B. | 1057-A Broadway St.  | N001-84R               |
| C. | 1359 - 8th Ave.      | N001-85R               |
| D. | 16 Laguna St.        | N001-86R thru N001-96T |
| E. | 3857 - 24th St. #2   | N001-52A               |
| F. | 1211 Revere Ave. #B  | N001-97R               |

- VI. Communications
- VII. Director's Report
- VIII. Consideration of Allegations of Wrongful Evictions
- IX. Old Business
- IV. Remarks from the Public (cont.)

X. New Business

XI. Appeal Hearing

6:00 2760 - 22nd St. N001-49A (acpt. 4/6/93)

XII. Calendar Items

IX. Adjournment

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MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO  
RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD

Tuesday, May 4, 1993 at 5:30 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level

\*\*\*\*\*

I. Call to Order

President Schlichtmann called the meeting to order at 5:35 p.m.

II. Roll Call

Commissioners Present: Carrico; Hammill; How;  
Marshall; Schlichtmann.  
Commissioners not Present: McGoldrick; Rossoff;  
Stephenson.  
Staff Present: Grubb; Wolf.

III. Approval of the Minutes

MSC: To approve the Minutes of April 13, 1993.  
(Marshall/How: 5-0)

IV. Consideration of Appeals

A. 1541-1543 - 15th St. N001-51A

The landlord petitioned for certification of capital improvement costs in the amount of \$59,400.00 for work that was performed through a loan from the San Francisco Rental Rehabilitation Program. The hearing officer denied the preponderance of the petition, finding that it was inadequately documented and not sufficiently specific. The amount of interest paid on the loan, if any, was also impossible to ascertain. On appeal, the landlord asserts that he only applied for half of the total costs of the project, which was financed by a loan from Wells Fargo Bank, and provides additional documentation from the Mayor's Office of Community Development.

MSC: To accept the appeal and remand the case to a new  
hearing officer for a new hearing.  
(Carrico/How: 5-0)

B. 1057-A Broadway St. N001-84R

The landlord's petition for a rent increase pursuant to Rules and Regulations Section 6.14, based upon alleged vacancy decontrol of

the subject unit, was granted by the hearing officer. On appeal, the new tenant maintains that the landlord lacked standing to bring the petition; that the Board has no jurisdiction to arbitrate the instant matter, as vacancy is not one of the factors to be taken into account in considering whether an increase is justified; and that the original tenant's lease is still in effect.

MSC: To excuse Commissioner Carrico from consideration of this appeal. (How/Hamill: 5-0)

MSC: To deny the appeal. (How/Schlichtmann: 4-0)

C. 1359 - 8th Ave. N001-85R

The tenants' petition was dismissed due to their failure to appear at the properly noticed hearing. On appeal, the tenants assert that they did not receive the Notice of Hearing, and submit a Declaration of Non-Receipt of Notice of Hearing in support of their contention. The tenants have had several prior petitions before the Board, and receipt of their mail has been a continuing problem. In conjunction with their appeal, the tenants have provided the Board with a post office box address for purposes of future mailings.

MSC: To accept the appeal and remand the case for a new hearing with the proviso that no future hearings will be scheduled should the tenants fail to provide the Board with their post office box address at the time of filing.  
(Marshall/How: 5-0)

D. 16 Laguna St. N001-86R thru N001-96R

The landlord's petition for certification of capital improvement costs was granted, in part, by the hearing officer. The tenants' petitions alleging various decreased housing services were denied except for rent reductions due to a malfunctioning elevator. On appeal, the tenants assert that the costs of a new hot water system should be disallowed, as they are still paying for a new boiler that was installed in 1983; that, as the Rules and Regulations place no statute of limitations on filing decrease in services petitions, they should be granted rent reductions commensurate with the heat and hot water problems they experienced in 1983; and that the hearing officer's decision contradicts settlements arrived at with the landlord. The tenant in unit #603 also appeals the decision on the basis of financial hardship.

MSC: To accept the tenant's appeal and schedule a Board hearing on the issue of financial hardship.  
(How/Hamill: 5-0)

After discussion, it was the consensus of the Board to continue this matter for two weeks in order to obtain information regarding the boiler and hot water system work.

E. 3857 - 24th St. #2 N001-52A

The tenant's petition alleging decreased housing services and the landlord's failure to repair due to a leaky roof was granted, and the landlord was found liable to the tenant in the amount of \$1,091.92. On appeal, the landlord asserts that the tenant should only be compensated for a 3-4 month period, representing the rainy season, and not for the whole year.

MSC: To deny the appeal. (Marshall/Hamill: 5-0)

F. 1211 Revere Ave. #B N001-97R

The tenant's petition alleging substantially decreased housing services was dismissed due to her failure to appear at the properly noticed hearing. On the day prior to the hearing, the tenant phoned the Rent Board office and requested a postponement due to her just having been released from the hospital. She stated that she would fax a postponement request to the office, but failed to do so. On appeal, the tenant reiterates her health problems and asks for a new hearing as her unit still has no source of heat.

MSC: To accept the appeal and remand the case for a new hearing. (Marshall/Hamill: 5-0)

V. Appeal Hearing

2760 - 22nd St. N001-49A (acpt. 4/6/93)

Neither party appeared for the scheduled appeal hearing. Upon review of the file, it was discovered that Notice of Appeal Hearing had not been sent. Therefore, this case will be rescheduled.

VI. Communications

The Board received the following communications:

A. A Press Release announcing the fact that criminal charges were filed by the District Attorney's office against Salustiana Adanza as the result of her attempt to evict tenants who refused to pay rents greater than those authorized by the Rent Board.



B. An article from the S.F. Examiner regarding an appeals court decision that the one-year statute of limitations for filing wrongful eviction lawsuits runs from the date a reasonable person would have realized that the landlord had falsely evicted them.

C. A letter from Eviction Unit Supervisor Pedro Ruiz regarding the case at 100-1/2 Sickles Avenue (N001-67E), which was approved by the Board and signed by President Schlichtmann.

VII. Director's Report

Executive Director Grubb reported on the current office backlog of cases, due to staff medical and maternity leaves, and the temporary staffing arrangements that have been made to ameliorate the problem. He also informed the Commissioners that the proposed Statutes of Limitation legislation may be amended to provide for a 5-year limit on capital improvements and delete the bad faith language in its entirety.

VIII. Calendar Items

May 11, 1993 - NO MEETING

May 18, 1993

7 appeal considerations (1 cont. from 5/4/93)  
6:00 Appeal Hearing: 2760 - 22nd. St. N001-49A (acpt. 4/6/93)  
(rescheduled from 5/4/93)

May 25, 1993 - NO MEETING

IX. Adjournment

President Schlichtmann adjourned the meeting at 7:05 p.m.





NOTICE OF THE REGULAR MEETING OF THE SAN  
FRANCISCO RESIDENTIAL RENT STABILIZATION  
& ARBITRATION BOARD, Tuesday, 5:30 p.m.  
May 18, 1993

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25 Van Ness Avenue, #70, Lower Level  
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AGENDA

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- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public
- V. Consideration of Appeals
  - A. 16 Laguna St. N001-86R thru N001-96R  
(cont. from 5/4/93)
  - B. 24 Alder St. N001-53A
  - C. 1350 Pine St. #406 N001-54A
  - D. 401 Hyde St. #502 N001-55A
  - E. 2254 Bush St. N001-56A
  - F. 739 Haight St. #305 N001-57A
  - G. 1443-A 47th Ave. N001-98R
- VI. Communications
- VII. Director's Report
- VIII. Consideration of Allegations of Wrongful Evictions
- IX. Old Business
- IV. Remarks from the Public (cont.)
- X. New Business
- XI. Appeal Hearing
  - 6:00 2760 - 22nd St. N001-49A (acpt. 4/6/93)  
(rescheduled from 5/4/93)
- XII. Calendar Items
- IX. Adjournment

0242M

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MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO  
RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD  
Tuesday, May 18, 1993 at 5:30 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level

\*\*\*\*\*

I. Call to Order

President Schlichtmann called the meeting to order at 5:40 p.m.

II. Roll Call

|                            |                                 |
|----------------------------|---------------------------------|
| Commissioners Present:     | How; Marshall;<br>Schlichtmann. |
| Commissioners not Present: | McGoldrick;<br>Stephenson.      |
| Staff Present:             | Grubb; Wolf.                    |

Commissioner Carrico appeared on the record at 5:45 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of May 4, 1993.  
(Marshall/How: 3-0)

IV. Consideration of Appeals

|                     |   |
|---------------------|---|
| A. 16 Laguna Street | N001-86R through<br>N001-96R<br>(cont. from 5/4/93) |
|---------------------|---|

The landlord's petition for certification of capital improvement costs was granted, in part, by the hearing officer. The tenants' petitions alleging various decreased housing services were denied except for rent reductions due to a malfunctioning elevator. On appeal, the tenants asserted that the costs of a new hot water system should be disallowed, as they are still paying for a new boiler that was installed in 1983; that, as the Rules and Regulations place no statute of limitations on filing decrease in services petitions, they should have been granted rent reductions commensurate with the heat and hot water problems they experienced in 1983; and that the hearing officer's decision contradicts settlements arrived at with the landlord. The tenant in unit #603 also appealed the decision on the basis of financial hardship.

At their meeting on May 4, 1993, the Board voted to accept the hardship appeal of the tenant in unit #603 and schedule a Board hearing on that issue only. The Commissioners also continued the matter to the May 18th meeting in order to obtain information from the hearing officer regarding the exact nature of the boiler and hot water system work. After discussion of the hearing officer's memorandum, the Commissioners voted as follows:

MSC: To accept the tenants' appeals and schedule a Board hearing only on the issue of equitable allocation of costs of the boiler system that was installed in 1983 and the new hot water system that was installed in 1990. (Marshall/How: 4-0)

B. 24 Alder Street

N001-53A

The landlord's appeal of the decision on remand was filed 3 days late. Four days prior to his appeal deadline, he had written the Deputy Director to request an extension in order to obtain replacement counsel. He was instructed to file timely, and submit substantiating documentation no later than one week prior to the date for consideration of his appeal. He states that he was ill and unable to file timely.

MSC: To find good cause for the late filing of the appeal. (Marshall/How: 3-1; Schlichtmann dissenting)

The tenant's petition alleging decreased housing services was granted, in part, by the hearing officer and the landlord (master tenant) was found liable in the amount of \$1,250 for rent reductions due to the lack of use of the kitchen, no front door key and a broken clothes dryer. The master tenant appealed, claiming non-receipt of notice of the hearing, and the case was remanded to the same hearing officer for a new hearing. The decision on remand was essentially the same, except that the master tenant's liability had increased to \$1,675.00 due to the passage of additional months without restoration of the above-mentioned services. The master tenant appeals on the grounds that: kitchen privileges were not included in the original rental contract; the tenant had never requested a front door key prior to these proceedings; and the tenant is refusing to pay her share of the utility bills, causing the master tenant financial hardship.

MSC: To deny the appeal. (Marshall/How: 3-1; Carrico dissenting)

C. 1350 Pine Street #406

N001-54A

The tenant petitioned regarding alleged decreased housing services, the landlord's failure to repair, and unlawful rent increases. A conciliation agreement was reached by the parties as to the decreased service and failure to repair claims, but a decision was rendered regarding the rent increase issue. The landlord was found liable to the tenant in the amount of \$7,123.86 for wrongful rent increases and capital improvements passthroughs that were not discontinued after having been fully amortized. On appeal, the landlord asserts that he should not be held responsible for illegal rent increases that were given by a prior owner.

MSC: In the interests of fairness and justice, to accept the landlord's appeal and schedule a Board hearing on the issue of the unlawful rent increases.  
(Carrico/How: 4-0)

D. 401 Hyde Street #502

N001-55A

The tenant's petition alleging decreased housing services was granted, in part, by the hearing officer and the tenant's rent was ordered reduced in the amount of \$13.00 per month due to the condition of the hallways and \$13.00 per month due to the condition of the bathroom sink and tub. On appeal, the landlord alleges that the tenant refuses to provide access to make necessary repairs; and that the hallways are filthy because the tenant fails to take his garbage downstairs.

MSC: To deny the appeal. (Marshall/How: 4-0)

E. 2254 Bush Street

N001-56A

The tenant's petition alleging substantially decreased housing services was granted, and the tenant was granted rent reductions in the amount of \$8,820.00 due to: no heat source in the unit since the inception of the tenancy; severe ceiling leaks with resulting deterioration and mildew; and flooring that is cracked, spongy and slanted. The landlord was also found liable to the tenant for \$2,450.00 resulting from unlawful rent increases. The landlord appeals, asserting that rent reductions should not have been granted, as services were not actually decreased; and that long-term verifiable notice was not shown such as to warrant rent reductions longer than one year prior to filing of the petition.

MSC: To deny the appeal. (Marshall/How: 4-0)



F. 739 Haight Street #305 N001-57A

The tenant's petition alleging decreased housing services was granted, in part, by the hearing officer. On appeal, the landlord alleged that under the terms of a settlement agreement between the parties, the tenant had agreed to withdraw his petition if repairs were effectuated within a specified time period. The landlord asserted that it was the tenant's refusal to provide access that made repairs within the timelines impossible. The case was remanded for a new hearing on this issue.

The hearing officer's decision on remand found that the landlord had failed to comply with the terms of the agreement, not due to the fault of the tenant, and that the tenant was therefore not obligated to withdraw his petition. The rent reductions ordered in the remand decision totalled \$783.50, as opposed to the \$880.00 granted in the original decision. The landlord appeals the remand decision, again asserting that it was the tenant's lack of cooperation that delayed the repairs; and alleging that the amounts granted are arbitrary and capricious.

MSC: To deny the appeal. (Marshall/How: 4-0)

G. 1443-A 47th Avenue N001-98R

The tenant's petition alleging decreased housing services during a period when her unit was being painted was granted, in part, by the hearing officer and the landlord was found liable in the amount of \$155.00 for the loss of use of the bathroom for a one-month period. The portion of the petition alleging unlawful rent increases was denied. On appeal, the tenant alleges that certain agreements between she and the landlord were reached at the hearing, which the decision does not reflect.

MSC: To accept the appeal and remand the case to the same hearing officer on the record for a corrected decision regarding any areas of settlement between the parties.  
(Marshall/How: 4-0)

V. Appeal Hearing

2760 - 22nd Street

N001-49A  
(acpt. 4/6/93)

The landlord's petition for certification of capital improvement costs was granted, in part, by the hearing officer. The cost of gas piping work in the amount of \$1,831.00 was disallowed because the work was commenced  
0244M

within six months of the tenants' move into the unit. On appeal, the landlords requested that Section 7.12(b) of the Rules and Regulations be waived because the plumbing renovation resulted from an unforeseen gas leak. The landlords' appeal was accepted in the interests of fairness and justice.

The landlords appeared at the appeal hearing and represented themselves. No appearance was made by the tenants. Following testimony regarding the circumstances surrounding performance of the work, the Commissioners passed the following motion:

MSC: To certify the costs of the gas piping work because the need for the work was unforeseen at the time the tenancy commenced. (Carrico/Marshall: 4-0)

#### VI. Communications

The Board received the following communications:

A. The appeal decision for the case regarding the Stonestown properties (Appeal Nos. N001-64R thru N001-71R), which was approved by the Board and signed by President Schlichtmann.

B. Proposed Ordinance amendments regarding payments to tenants displaced as the result of an "Ellis" removal of a unit from housing use, resulting from the Channing case involving the Berkeley Rent Board. This issue will be calendared for a future Board meeting.

C. The workload statistics for the month of April.

- D. A confidential memo from City Attorney Ilene Dick explaining the necessary elements to prevail on a "laches" defense.

#### VII. Director's Report

Executive Director Grubb reported as follows:

A. The proposed Statutes of Limitation legislation passed unanimously at the Board of Supervisors' meeting on May 17th. It will be calendared for a second reading at the Supervisors' May 24th meeting.

B. The increase in the rental unit fee from \$8.00 to \$10.00 will be before the Board of Supervisors' Finance Committee on May 19th.

C. Proposed legislation exempting Project Artaud and other public benefit non-profit corporations will be considered at the Board of Supervisors' Land Use Committee on May 20th.

D. The Parkmerced Corporation has retained new counsel to represent them in their pending case before the Rent Board.

E. According to Deputy Mayor Jim Lazarus, new Rent Board Commissioners will be appointed shortly. Only one tenant position remains undecided.

VIII. Remarks from the Public

The tenant in the case at 1350 Pine Street #406 asked the Commissioners some questions regarding her pending appeal hearing.

IX. New Business

Commissioner Carrico raised some concerns about the applicability of the Rent Ordinance to master tenant/roommate situations.

X. Calendar Items

May 25, 1993 - NO MEETING

June 1, 1993

6 appeal considerations

6:00 Appeal Hearing: 1350 Pine St. #406 (N001-54A)  
(acpt. 5/18/93)

June 8, 1993 - NO MEETING

• June 15, 1993 - NO MEETING

XI. Adjournment

President Schlichtmann adjourned the meeting at 7:15 p.m.





NOTICE OF THE REGULAR MEETING OF THE SAN  
FRANCISCO RESIDENTIAL RENT STABILIZATION  
& ARBITRATION BOARD, Tuesday, 5:30 p.m.  
June 1, 1993

\*\*\*\*\*  
25 Van Ness Avenue, #70, Lower Level  
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AGENDA

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- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public
- V. Consideration of Appeals
  - A. 838 Anza St. N001-58A
  - B. 248-A 29th St. N001-99R
  - C. 515 John Muir Dr. #313 N001-59A
  - D. 235 & 335 Buckingham Way N001-60A  
(Stonestown)
  - E. 140 Gardenside Dr. #401 N002-01R
  - F. 1359 8th Ave. N002-02R
  - G. 170 Duboce Ave. #10 N001-61A
- VI. Communications
- VII. Director's Report
- VIII. Consideration of Allegations of Wrongful Evictions
- IX. Old Business
- IV. Remarks from the Public (cont.)
- X. New Business
- XI. Appeal Hearing
  - 6:00 1350 Pine St. #406 N001-54A  
(acpt. 5/18/93)
- XII. Calendar Items
- IX. Adjournment

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There is accessible parking available on adjacent streets (Oak Street and Hickory). Metered street parking is also available.



MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO  
RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD

Tuesday, June 1, 1993 at 5:30 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level

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I. Call to Order

President Schlichtmann called the meeting to order at 5:40 p.m.

II. Roll Call

Commissioners Present: Carrico; How; Marshall;  
Schlichtmann.  
Commissioners not Present: Stephenson.  
Staff Present: Grubb; Wolf.

Commissioner McGoldrick appeared on the record at 5:42 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of May 18, 1993.  
(Marshall/How: 4-0)

IV. Consideration of Appeals

A. 838 Anza St. N001-58A

Four tenants filed petitions alleging decreased housing services. Prior to the hearing, one petition was withdrawn, and one tenant was granted a postponement. The two tenants whose petitions were heard prevailed, in part, and were granted the sums of \$315.00 and \$540.00 due to lack of elevator service. The landlord failed to appear at the hearing and appeals because she mistakenly thought that the postponement applied to all of the petitions.

MSC: To accept the appeal and remand the case for a new hearing. (McGoldrick/How: 5-0)

B. 248-A 29th St. N001-99R

The landlord's petition for certification of capital improvement costs to two units was granted, in part, by the hearing officer. The majority of the work involved common area seismic work. Additionally, one of the two units was remodelled, resulting in a \$304.88 passthrough to the tenant in that unit. That tenant is

disabled and appeals the decision on the basis of financial hardship. She also alleges that certain amounts that were not certified by the hearing officer were inadvertently included in the total passthrough.

MSC: To accept the appeal and schedule a Board hearing on the issue of financial hardship; a numerical correction will be issued, if necessary.  
(Marshall/McGoldrick: 5-0)

C. 515 John Muir Dr. #31 N001-59A

The tenant's petition alleging decreased housing services and the landlord's failure to repair was granted, in part, by the hearing officer. The tenant, who is disabled, was granted a rent reduction of \$45.00 for a one-month period when garage access was blocked, and \$45.00 per month due to reduced security around the pool area. Additionally, the landlord's most recent annual increase was deferred pending abatement of code violations pertaining to the swimming pool and spa. The landlord appeals, alleging that a Health Department report showing a chemical imbalance in the pool was completed on the day after the pool was replastered; the pool security is the same as before; and that the tenant has been compensated for this condition in a prior Rent Board decision.

MSC: To deny the appeal. (Marshall/Schlichtmann: 5-0)

D. 235 & 335 Buckingham Way (Stonestown) N001-60A

Two tenants were granted rent reductions of \$10.00 per month due to changes in the configuration and amenities of the laundry room that made it inconvenient and less pleasant for the tenants to use. Additionally, the landlord was found liable to one of the tenants in the amount of \$75.00 due to a wet and muddy lobby during the rainy season. The landlord appeals, alleging that: the reductions for the laundry room reconfiguration need to be specifically designated so that the landlord can restore correct proportions of the rent reduction after restoring services; none of the service reductions are substantial; and there was no agreement to provide amenities, such as the laundry room toilet, as part of the tenancies.

MSC: To remand the case on the record for clarification as to the specific amounts for each component of the laundry room reduction; to deny the appeal as to all other issues. (Marshall/McGoldrick: 3-2; Carrico, How dissenting)

E. 140 Gardenside Dr. #401 N002-01R

The tenant's petition alleging decreased housing services was granted, in part, by the hearing officer. The landlord was found liable to the tenant in the amount of \$690.00 for past leaks in his

bedroom, and on-going rent reductions of \$34.50 per month were granted for both the condition of the carpeting and the condition of the drapes. Leaks in the bathroom ceiling were not found to be substantial. On appeal, the tenant asserts that the bedroom leak has resumed; that the rent reductions granted did not go back far enough; and that the reason the bathroom leak was not cited by the Building Inspector was because the tenant forgot to point it out to him.

MSC: To accept the tenant's appeal and remand the case to the same hearing officer on the issues of: whether the bedroom ceiling leak has resumed, and the rent reduction should be on-going; and whether the bathroom ceiling leak constitutes a substantial decrease in services. (Carrico/Schlichtmann: 5-0)

F. 1359 8th Ave.

N002-02R

The tenants' appeal was filed four days late because one copy of the decision was sent to an incorrect address, and the copy sent to their post office box was not retrieved by the tenants for one week. With reluctance, the Commissioners passed the following motion:

MSC: To find good cause for the late filing of the appeal. (How/Marshall: 5-0)

The tenants' petition alleging decreased housing services and the landlords' failure to repair was granted, in part, by the hearing officer. Rent reductions totalling \$1,970.00 were allowed for the following decreased housing services: mice infestation; kitchen water leaks; bathroom water leaks; debris-filled back yard and garage; and lack of accessible mailbox. The tenants' first appeal was accepted for reconsideration of the commencement date for the rent reductions; the denial of rent reductions for the refrigerator and carpet; and whether a reduction is warranted for the period prior to the tenants' engaging in self-help to fix the stove. In the remand decision, the tenants were granted rent reductions for the refrigerator, carpet and stove; the commencement date was established to be one month later than in the prior decision. The tenants appeal the remand decision, alleging that the rent reductions of \$3,360.00 are insufficient to provide the landlords with an incentive to provide safe, decent and sanitary housing.

MSC: To deny the appeal. (How/Marshall: 5-0)

G. 170 Duboce Ave. #10

N001-61A

The tenant's petition alleging decreased housing services and the landlord's failure to repair was granted, in part, by the hearing officer. The landlord was found liable to the tenant in the amount of \$1,059.75 due to ceiling leaks and the annual increase was

deferred until the necessary repairs are made. The landlord failed to appear at the properly noticed hearing, and appeals the decision on the grounds that he did not receive notice of the hearing. He submits a Declaration of Non-Receipt of Notice of Hearing in support of his appeal.

MSC: To accept the landlord's appeal and remand the case for a new hearing. (Carrico/How: 5-0)

V. Communications

In addition to correspondence regarding cases on the calendar, the Commissioners received the appeal decision for the case at 2760 - 22nd Street (N001-49A), which was approved by the Board and signed by President Schlichtmann.

VI. Director's Report

Executive Director Grubb informed the Board that Connie Brandon has been chosen to fill the 1/2-time Hearing Officer position vacated by Norma Molinar. Mr. Grubb will be on vacation from June 2nd through June 11th, and will be back in the office on June 14th.

VII. New Business

The Commissioners briefly discussed some areas of the rent law that require clarification. The Deputy Director will furnish the Board with a list of issues to be prioritized for discussion at future meetings.

VIII. Calendar Items

June 8, 1993 - NO MEETING

June 15, 1993 - NO MEETING

June 22, 1993

6 appeal considerations

6:00 Appeal Hearing: 16 Laguna St. (N001-86R thru 96R)  
(acpt. 5/18/93)

6:30 Appeal Hearing: 1350 Pine St. #406 (N001-54A)  
(acpt. 5/18/93)  
(post. from 6/1/93)

Old Business: Channing Amendments

New Business: Rules & Regulations Section 6.14

IX. Adjournment

President Schlichtmann adjourned the meeting at 7:10 p.m.





NOTICE OF THE REGULAR MEETING OF THE SAN  
FRANCISCO RESIDENTIAL RENT STABILIZATION  
& ARBITRATION BOARD, Tuesday, 5:30 p.m.  
June 22, 1993

\*\*\*\*\*

25 Van Ness Avenue, #70, Lower Level  
\*\*\*\*\*

AGENDA

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- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public
- V. Consideration of Appeals

- A. 822 Grove St. #3 N002-03R
- B. 307-A Scott St. N001-63A
- C. 621 Taylor St. #65 N001-04R
- D. 1171 Clay St. #6 N001-62A
- E. 134-1/2 Carl St. N001-64A
- F. 1301 Leavenworth St. #5 N002-05R/N001-65A

- VI. Communications
- VII. Director's Report
- VIII. Consideration of Allegations of Wrongful Evictions
- IX. Old Business

"Channing" Amendments

- IV. Remarks from the Public (cont.)

- X. New Business

Rules and Regulations Section 6.14

- XI. Appeal Hearings

- 6:00 16 Laguna St. N001-86R thru N002-96R  
(acpt. 5/18/93)
- 6:30 1350 Pine St. #406 N001-54A (acpt. 5/18/93)  
(post. from 6/1/93)

- XII. Calendar Items

- IX. Adjournment

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MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO  
RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD

FRANK M. JORDAN  
MAYOR

JILL SCHLICHTMANN  
PRESIDENT

Tuesday, June 22, 1993 at 5:30 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

\*\*\*\*\*

POLLY MARSHALL  
VICE-PRESIDENT

I. Call to Order

President Schlichtmann called the meeting to order at 5:40 p.m.

TIM CARRICO  
MAMIE HOW  
JAKE MCGOLDRICK  
DENICE STEPHENSON

II. Roll Call

Commissioners Present: Carrico; Marshall;  
Schlichtmann.  
Commissioners not Present: How; Stephenson.  
Staff Present: Grubb; Wolf.

Commissioner McGoldrick appeared on the record at 5:44 p.m. and  
left the meeting at 6:02 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of June 1, 1993.  
(Carrico/Marshall: 3-0)

IV. Consideration of Appeals

A. 822 Grove St. #3 N002-03R

The tenant's petition alleging decreased housing services and the  
landlord's failure to make requested repairs was dismissed due to  
her failure to appear at the properly noticed hearing. On appeal,  
the tenant asserts that she was unable to take time off from her  
employment due to an unforeseen circumstance, and attaches a  
letter from her employer to that effect.

MSC: To accept the appeal and remand the case for a new  
hearing. (Marshall/Schlichtmann: 4-0)

B. 307-A Scott St. N001-63A

The tenant's petition alleging decreased housing services was  
granted by the hearing officer, and the landlord was found liable  
to the tenant in the amount of \$200.00 due to lack of heat in the  
unit. On appeal, the landlord asserts that the hearing officer  
was biased towards the tenant, and alleges that the tenant damaged  
the unit prior to moving out.

MSC: To deny the appeal. (Marshall/McGoldrick: 4-0)

C. 621 Taylor St. #65 N001-04R

The tenant's petition alleging decreased housing services was administratively dismissed due to her repeated failure to provide the Board with a mailing address for the landlord. The tenant appeals the dismissal, explaining that, as the building was in the process of being sold, she was confused as to its ownership. She provides a current mailing address for the new owner.

MSC: To accept the appeal and remand the case for hearing. (Carrico/Marshall: 4-0)

D. 1171 Clay St. #6 N001-62A

The landlord's petition for a rent increase for one unit based on increased operating expenses was denied, due to the fact that the landlord only furnished information as to costs associated with debt service on the property. On appeal, the landlord states that she now realizes she needs to prove an increase in the aggregate cost of her operating and maintenance expenses, and she requests a new hearing in order to provide the necessary information.

MSC: To accept the appeal and remand the case for a new hearing. (Carrico/Marshall: 4-0)

E. 134-1/2 Carl St. N001-64A

The tenant's petition alleging an unlawful rent increase was granted by the hearing officer, and a \$1,000 rent increase for a workshop area previously included as part of the tenant's unit was determined to be null and void. The landlord appeals, asserting that: seismic work and subsequent reconfiguration of the unit resulted in additional square footage in the tenant's unit, as opposed to loss of square footage; the tenant never received permission for use of the area; and such use was in violation of City codes.

MSC: To deny the appeal. (Marshall/McGoldrick: 3-1; Carrico dissenting)

F. 1301 Leavenworth St. #5 N002-05R & N001-65A

The tenant's petition alleging substantial decreases in housing services was granted, in part, by the hearing officer. The landlord was found liable to the tenant in the amount of \$172.50 due to a leaking bathtub for almost a one-year period. Both parties appeal, the landlord alleging that the leak was very small and insignificant; the tenant claiming that the leak was extremely serious and undervalued by the hearing officer, and that it

persisted for one and one-half years.

MSC: To deny both the tenant's and landlord's appeals.  
(Carrico/McGoldrick: 4-0)

V. Communications

The Commissioners received the following communications:

A. The workload statistics for the month of May.

B. A Memo from the Executive Director regarding a City Attorney's clerical error in the recently passed Statutes of Limitations legislation, which will be reintroduced as an amendment.

C. A copy of a newspaper article regarding a federal court ruling declaring the San Francisco Residential Hotel Conversion Ordinance unconstitutional.

VI. Director's Report

Executive Director Grubb informed the Board that he appeared this afternoon before the Board of Supervisors' Finance Committee regarding the departmental budget. Cuts recommended by budget analyst Harvey Rose included projected savings in the areas of workers' compensation and salaries, with which the department concurred.

VII. Appeal Hearings

A. 16 Laguna Street                      N001-86R through N001-96R  
(acpt. 5/18/93)

The landlord's petition for certification of capital improvement costs was granted, in part, by the hearing officer. The tenants' petitions alleging various decreased housing services were denied except for rent reductions due to a malfunctioning elevator. On appeal, the tenants asserted that the costs of a new hot water system should be disallowed, as they are still paying a passthrough for a new boiler that was installed in 1983; that, as the Rules and Regulations place no statute of limitations on filing decrease in services petitions, they should have been granted rent reductions commensurate with the heat and hot water problems they experienced in 1983; and that the hearing officer's decision contradicted settlement agreements arrived at with the landlord.

The Board first considered these appeals at their meeting on May 4, 1993. At that time, the Commissioners continued the matter to the meeting of May 18th in order to obtain information from the

hearing officer regarding the exact nature of the boiler and hot water system work. At the May 18, 1993 meeting, the Board voted to accept the tenants' appeals and schedule a Board hearing only on the issue of equitable allocation of costs of the boiler system that was installed in 1983 and the new hot water system that was installed in 1990.

The landlord failed to appear at the properly noticed Board hearing on June 22, 1993. Two tenants appeared, representing themselves and the other tenant-appellants. After waiting twenty minutes in order for the landlord to appear, the hearing commenced at 6:20 p.m.. Following testimony regarding the work that led to both passthroughs, and review of a Memorandum from the Rent Board's estimator estimating the cost of a new boiler without a hot water system in 1983, the Board passed the following motion:

MSC: To certify the costs of the hot water system installed in 1990, but reduce the prior passthrough for the boiler by the amount attributable to provision of hot water, so that the tenants are not paying for the same service twice; and to make a numerical correction to the decision regarding allocation of boiler costs, if necessary. (Marshall/Schlichtmann: 3-0)

B. 1350 Pine Street #406      N001-54A (acpt. 5/18/93)  
(post. from 6/1/93)

The tenant petitioned regarding alleged decreased housing services, the landlord's failure to repair, and unlawful rent increases. A conciliation agreement was reached by the parties as to the decreased service and failure to repair claims, but a decision was rendered regarding the rent increase issue. The landlord was found liable to the tenant in the amount of \$7,123.86 for rent overpayments resulting from unlawful rent increases and capital improvement passthroughs that were not discontinued after having been fully amortized. On appeal, the landlord asserted that he should not be held responsible for illegal rent increases that were given by a prior owner; and that the tenant waited too long to assert her rights. The Board accepted the landlord's appeal for hearing on the issue of the unlawful rent increases in the interests of fairness and justice.

The tenant appeared with her attorney; the landlord was accompanied by a witness. Testimony centered on the parties' knowledge of the wrongfulness of the increases, and the involvement of a co-owner, who moved to Israel in 1988 or 1989. After discussion, the Board passed the following motion:

MSC: In the interests of fairness and justice, to refund overpayments resulting from the unlawful rent increase in October 1982 for only the three-year period preceding the date of filing of the tenant's petition, plus the period between the date of filing and the date of the Board's decision; to re-set the base rent based on a determination of the validity of all rent increases imposed since April 1, 1982; and to refund all monies paid for capital improvement passthroughs after the date such costs should have been discontinued. (Schlichtmann/Carrico: 3-0)

VIII. Old Business

The Board briefly discussed proposed Ordinance amendments regarding payments to tenants displaced as the result of an "Ellis" removal of a unit from housing use, resulting from the Channing case involving the Berkeley Rent Board. Commissioner Marshall raised some concerns which she will discuss with Deputy City Attorney Ilene Dick.

IX. Calendar Items

June 29, 1993 - NO MEETING

July 6, 1993

8 appeal considerations

6:00 Appeal Hearing: 248 - 29th St. #A N001-99R (acpt. 6/1/93)  
Old Business: Channing Amendments

July 13, 1993 - NO MEETING

X. Adjournment

President Schlichtmann adjourned the meeting at 8:00 p.m.





NOTICE OF THE REGULAR MEETING OF THE SAN  
FRANCISCO RESIDENTIAL RENT STABILIZATION  
& ARBITRATION BOARD, Tuesday, 5:30 p.m.  
July 6, 1993

FRANK M. JORDAN  
MAYOR

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

JILL SCHLICHTMANN  
PRESIDENT

POLLY MARSHALL  
VICE-PRESIDENT

\*\*\*\*\*  
25 Van Ness Avenue, #70, Lower Level  
\*\*\*\*\*  
AGENDA  
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TIM CARRICO  
MAMIE HOW  
JAKE MCGOLDRICK  
DENICE STEPHENSON

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public
- V. Consideration of Appeals

|    |                         |          |
|----|-------------------------|----------|
| A. | 1630 Sutter St.         | N001-66A |
| B. | 537 Connecticut St.     | N002-06R |
| C. | 2916 Jackson St.        | N002-07R |
| D. | 1063 Market St.         | N001-67A |
| E. | 3840 Folsom St. #4      | N002-08R |
| F. | 55 Beideman Pl.         | N001-68A |
| G. | 3182 Mission St.        | N002-09R |
| H. | 1540 Greenwich St. #203 | N002-11R |

- VI. Communications
- VII. Director's Report
- VIII. Consideration of Allegations of Wrongful Evictions
- IX. Old Business
  - Channing Amendments
- IV. Remarks from the Public (cont.)
- X. New Business
- XI. Appeal Hearing
  - 6:00 248 - 29th St. #A N001-99R (acpt. 6/1/93)
- XII. Calendar Items
- IX. Adjournment

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MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO  
RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD

Tuesday, July 6, 1993 at 5:30 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level

\*\*\*\*\*

FRANK M. JORDAN  
MAYOR

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

JILL SCHLICHTMANN  
PRESIDENT

POLLY MARSHALL  
VICE-PRESIDENT

I. Call to Order

President Schlichtmann called the meeting to order at 5:40 p.m.

TIM CARRICO  
MAMIE HOW  
JAKE MCGOLDRICK  
DENICE STEPHENSON

II. Roll Call

Commissioners Present: How; Marshall;  
McGoldrick; Schlichtmann.  
Commissioners not Present: Stephenson.  
Staff Present: Grubb; Ruiz.

Commissioner Carrico appeared on the record at 5:41 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of June 22, 1993.  
(Marshall/McGoldrick: 4-0)

IV. Consideration of Appeals

A. 1630 Sutter St. #3 N001-66A

The tenant's petition alleging decreased housing services was granted by the hearing officer, and the landlord was found liable to the tenant in the amount of \$3,570.00 due to severe water leakage in the unit from mid-October 1991 through March 1993. The landlord appeals the rent reductions for the period mid-October 1992 through March 1993 (5-1/2 months), when the exterior of the building was removed and the unit was exposed to the elements. She asserts that the work was delayed due to problems with the contractor and inclement weather.

MSC: To deny the appeal. (Marshall/McGoldrick: 5-0)

B. 537 Connecticut St. N002-06R

The tenants' petition alleging decreased housing services was denied by the hearing officer because the tenants failed to meet their burden of proof concerning inadequate heat in the unit. On appeal, the tenants assert that the hearing officer ignored evidence regarding lack of heat and they submit a

revised copy of the B.B.I. Notice of Violation and a statement from the building inspector.

MSC: To deny the appeal. (How/McGoldrick: 5-0)

C. 2916 Jackson St. N002-07R

The landlord's petition for certification of capital improvement costs to two units was granted by the hearing officer. The majority of the work involved exterior painting of the front of the building. One of the tenants appeals, asserting that the painting and repair of the stucco constitutes maintenance and repair because the work did not materially add to the value or appreciably prolong the useful life of the property.

MSC: To deny the appeal. (How/Carrico: 5-0)

D. 1063 Market St. N001-67A

The tenant's petition alleging decreased housing services for lack of access to a shower was denied because the tenant had not paid or owed any rent since the service was denied. On appeal, the landlord asserts that the tenant does not occupy the premises to the exclusion of others and therefore is not a tenant as defined in the Rent Ordinance.

MSC: To accept the appeal on the issue of whether there was a substantial decrease in services. The Board is particularly interested in arguments and facts on whether the petitioner-appellee falls within the definition of a tenant. The recommendation of wrongful eviction will not be considered.

E. 3840 Folsom St. #4 N002-08R

The tenant's petition alleging substantially decreased housing services was granted, in part, by the hearing officer. The landlord was found liable to the tenant in the amount of \$1,122.44 for discontinuance of landlord paid utilities and holes in the storage and roof areas. In addition, ongoing monthly rent reductions of \$81.16 were granted for the lack of both services. On appeal, the tenant asserts that there are no smoke detectors in the building and that the Building Inspector overlooked this violation; that he bought his own garbage cans but is unable to use them because they are used by other tenants; and, that the rent reduction for the discontinuance of landlord paid utilities did not go back far enough.

MSC: To deny the appeal. (How/Schlichtmann: 5-0)  
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F. 55 Biedeman Place

N001-68A

The landlord's appeal was filed three days late because the decision was delivered to an incorrect address.

MSC: To find good cause for the late filing of the appeal. (Marshall/How: 5-Q)

The tenant's petition alleging decreased housing services and the landlord's failure to repair was granted, in part, by the hearing officer. The landlord was found liable to the tenant in the amount of \$350.00 for the lack of a bathroom light. The landlord appeals, alleging that the repairs were completed in a timely manner and that the rent reduction calculation is erroneous. On June 30, 1993, a Notice of Technical Correction to Decision of Hearing Officer was issued to all parties. As a result, the landlord was found liable to the tenant in the amount of \$50.00 for the period January 1992 through February 1992.

MSC: To deny the appeal.  
(Schlichtmann/Carrico: 5-0)

G. 3182 Mission St.

N002-09R

The landlord filed a petition for certification of capital improvements on June 20, 1990. A hearing was held on January 22, 1991 and a decision was issued on March 29, 1991. Upon the timely filing of the landlord's appeal on May 7, 1991, the Rent Board Commissioners remanded the case for a new hearing due to the lack of an audible record. A remand hearing was held on June 25, 1991. The remand decision, issued on August 6, 1991, denied a great portion of the landlord's labor costs due to the lack of sufficient documentation. The landlord again timely appealed, asserting that he had not received a fair hearing as it was the same hearing officer rendering essentially the same decision. On September 17, 1991, the Board accepted the landlord's appeal for hearing before the Board and the case was heard on October 22, 1991. The Board issued a decision on November 26, 1991.

A year and a half later, the tenant appeals on the grounds that she is an SSI recipient and the capital improvement passthrough causes her a significant hardship. She asks that the appeal deadline be waived because her prior attorney failed to appeal on the basis of hardship.

MSC: To find no good cause for accepting the late filing of this appeal. (Schlichtmann/Carrico: 5-0)

0250M

H. 1540 Greenwich St. #203      N002-11R

The tenant's petition alleging decreased housing services was dismissed with prejudice because she failed to appear for the hearing at the scheduled time. The tenant appeals the dismissal, explaining that she had a car breakdown of major proportions on the freeway. She submits documentation in the form of a repair order invoice and a motorist assistance form from the highway patrol.

MSC:      To accept the appeal and remand the case for a hearing. (Carrico/Marshall: 5-0)

V.      Communications

The Commissioners received letters from the tenants and the landlord regarding 537 Connecticut Street, Case No. N002-06R.

VI.      Appeal Hearing

A. 248-29th St. #A      N001-99R (acpt. 6/1/93)

The landlord's petition for certification of capital improvement costs to two units was granted, in part, by the hearing officer. The majority of the work involved common area seismic work. Additionally, one of the two units was remodelled, resulting in a \$304.88 passthrough to the tenant in that unit. That tenant is disabled and appealed the decision on the basis of financial hardship. She also alleged that certain amounts that were not certified by the hearing officer were inadvertently included in the total passthrough. The tenant's appeal was accepted on the basis of financial hardship and that a numerical correction would be issued, if necessary. A numerical correction was issued on June 29, 1993.

The tenant appeared with her non-attorney representative. The landlord's agent and a non-attorney representative appeared on the landlord's behalf. Testimony focused on the tenant's financial circumstances. After discussion, the Board passed the following motion:

MSC:      To defer the capital improvement passthrough indefinitely until the tenant's financial circumstances change significantly, at which time the tenant should notify the landlord. If the landlord believes that the tenant's financial circumstances have changed, he may re-notice the passthrough. Any amounts paid by the tenant from the effective date of the passthrough in December 1992 should be offset

0250M

from future rents or refunded by the landlord.  
The anniversary date remains the same.  
(Marshall/McGoldrick: 5-0)

VIII. Old Business

The Executive Director informed the Board that the information requested from the Deputy City Attorney regarding payments to tenants displaced as the result of an "Ellis" removal of a unit from housing use was forthcoming. Discussion of this matter, which arose because of the Channing case involving the Berkeley Rent Board, was continued until the next meeting.

IX. Calendar Items

July 13, 1993 - NO MEETING.

July 20, 1993

5 appeal considerations

Old Business: Channing Amendments

July 27, 1993 - NO MEETING.

X. Adjournment

President Schlichtmann adjourned the meeting at 6:45 p.m.







JILL SCHLICHTMANN  
PRESIDENT

POLLY MARSHALL  
VICE-PRESIDENT

NOTICE OF THE REGULAR MEETING OF THE SAN  
FRANCISCO RESIDENTIAL RENT STABILIZATION  
& ARBITRATION BOARD, Tuesday, 5:30 p.m.  
July 20, 1993

\*\*\*\*\*

25 Van Ness Avenue, #70, Lower Level  
\*\*\*\*\*

AGENDA

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FRANK M. JORDAN  
MAYOR

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

TIM CARRICO  
MAMIE HOW  
JAKE MCGOLDRICK  
DENICE STEPHENSON

I. Call to Order

II. Roll Call

III. Approval of the Minutes

IV. Remarks from the Public

V. Consideration of Appeals

|    |                    |          |
|----|--------------------|----------|
| A. | 1385 Greenwich St. | N002-10R |
| B. | 1649 15th St. #1   | N001-69A |
| C. | 682 Oak St. #2     | N001-70A |
| D. | 904 Pine St. #3    | N002-12R |
| E. | 1459-A Vallejo St. | N001-71A |

VI. Communications

VII. Director's Report

VIII. Consideration of Allegations of Wrongful Evictions

IX. Old Business

Channing Amendments

IV. Remarks from the Public (cont.)

X. New Business

XI. Calendar Items

XII. Adjournment

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0249M

## *ACCESSIBLE MEETING POLICY*

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There is accessible parking available on adjacent streets (Oak Street and Hickory). Metered street parking is also available.



MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO  
RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARDTuesday, July 20, 1993 at 5:30 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level

\*\*\*\*\*

I. Call to Order

President Schlichtmann called the meeting to order at 5:35 p.m. The new Commissioners were introduced and welcomed to the Board.

II. Roll Call

|                            |   |
|----------------------------|---|
| Commissioners Present:     | Becker; Coffino; Gruber;<br>How; Lightner; Marshall;<br>Nash; Schlichtmann. |
| Commissioners not Present: | Stephenson.   |
| Staff Present:             | Grubb; Wolf.  |

President Schlichtmann left the meeting at 6:40 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of July 6, 1993.  
(Marshall/How: 3-0)

IV. Consideration of Appeals

## A. 1385 Greenwich St. #14 N002-10R

The landlord's petition for certification of capital improvement costs was granted, in part, by the hearing officer. The tenant in one unit appeals on the basis of financial hardship, but furnishes no information regarding her income and resources.

MSC: To continue this case for two weeks in order for staff to obtain additional information regarding the tenant's financial circumstances. (Marshall/Lightner: 5-0)

## B. 1649 15th St. #1 N001-69A

The landlord's appeal was filed 13 days late because the landlord experienced delays in obtaining expert testimony that he felt was necessary for the presentation of his appeal.

MSC: To find good cause for the late filing of the appeal. (Marshall/Becker: 5-0)

The tenant's petition alleging decreased housing services was granted, in part, by the hearing officer. The landlord was found liable to the tenant in the amount of \$1,120.00 due to inadequate ventilation in the bathroom, causing a severe mildew and fungus problem; a leak in the kitchen sink, rendering the storage area beneath unuseable; and defective fluorescent lighting. On appeal, the landlord alleges that the mildew problem was caused by the tenant failing to keep the bathroom window open, especially after taking warm showers or baths.

MSC: To deny the appeal. (Marshall/Coffino: 3-2; Gruber, Lightner dissenting)

C. 682 Oak St. #2

N001-70A

The tenants' petition alleging decreased housing services for the month of December, 1992 only, was granted, in part, by the hearing officer. The landlord was found liable to the tenants in the amount of \$280.00 due to a malfunctioning heater and an uninhabitable "porch" that had been advertised by the landlord as a second bedroom. On appeal, the landlord asserts that the tenants were without heat for 3 days only, and not the entire month, and that there were no building code violations issued regarding the sun porch.

MSC: To deny the appeal. (Becker/Marshall: 5-0)

D. 904 Pine St. #3

N002-12R

The landlord's petition for certification of the costs of painting the building was granted by the hearing officer, resulting in a \$29.90 monthly passthrough to three units. The tenant in one unit, who is unemployed, appeals the decision on the basis of financial hardship.

MSC: To accept the appeal and schedule a Board hearing on the issue of the tenant's financial hardship. (Marshall/Becker: 5-0)

E. 1459-A Vallejo St.

N001-71A

The landlord petitioned for certification of costs associated with the remodelling of one unit in a six-unit building. Although the estimator's report valued the cost at close to the amount claimed by the landlord, the hearing officer denied the petition entirely because the degree of disorganization of the supporting documentation made it impossible to separate costs

allocable to this unit from common area work, and from costs allocable to other units in the building. On appeal, the landlord argues that, since the tenants agree that the work was done and the estimator's report verifies the reasonableness of the cost, the value of the work provided by the estimator should be certified. In her response, the hearing officer suggests that the case be remanded to her, with specific instructions for reorganization of the petition and accompanying documentation.

MSC: To excuse Commissioner Lightner from consideration of this appeal.  
(Marshall/Schlichtmann: 5-0)

MSC: To accept the landlord's appeal and remand the case to the same hearing officer, contingent on the landlord's compliance with the requirements contained in the hearing officer's July 14, 1993 Memorandum to the Commissioners.  
(Gruber/Coffino: 5-0)

#### V. Communications

The Commissioners received the following communications:

A. A letter from Executive Director Joe Grubb to City Attorney Louise Renne requesting a legal opinion regarding the admissibility of hearsay evidence and the degree to which such evidence can be relied upon in the rendering of Rent Board decisions.

B. A letter from Attorney Thomas Eastridge to President Schlichtmann requesting that the Board file an amicus brief on behalf of the plaintiff in the case of Schneider v. Dervin (Superior Court No. 908127), currently pending before the First District Court of Appeal. The issue presented is the recovery of attorneys' fees by the "prevailing party" under Ordinance Section 37.9(f).

C. The Board's recently enacted Statutes of Limitations legislation, which is currently before the Board of Supervisors due to the need for a clerical correction.

#### VI. Director's Report

The Executive Director provided an overview and explanation of departmental operations and staffing for the benefit of the new Commissioners.

VII. Old Business

The Board briefly discussed possible amendments to the Rent Ordinance resulting from the Channing case involving the Berkeley Rent Board. The issue concerns payments to tenants displaced as the result of an "Ellis" removal of a unit from housing use. This matter was continued to the August 3, 1993 Board meeting.

VIII. Calendar Items

July 27, 1993 - NO MEETING

August 3, 1993

5 appeal considerations (1 cont. from 7/20/93)

- 6:00 Appeal Hearing: 2837 - 23rd St. (M001-10A)  
(cont. from 1/15/93)  
(rescheduled from 7/20/93)
- 6:30 Appeal Hearing: 1063 Market St. N001-67A (acpt. 7/6/93)  
Old Business:  
A. Attorney's fees under Ordinance Section 37.9(f)  
B. Channing Amendments

August 10, 1993 - NO MEETING

August 17, 1993 - NO MEETING

IX. Adjournment

Vice-President Marshall adjourned the meeting at 7:35 p.m.



NOTICE OF THE REGULAR MEETING OF THE SAN  
FRANCISCO RESIDENTIAL RENT STABILIZATION  
& ARBITRATION BOARD, Tuesday, 5:30 p.m.

August 3, 1993

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25 Van Ness Avenue, #70, Lower Level

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AGENDA

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I. Call to Order

II. Roll Call

III. Approval of the Minutes

IV. Remarks from the Public

V. Consideration of Appeals

A. 1385 Greenwich St.

N002-10R

(cont. from 7/20/93)

B. 700 - 29th Ave. #8

C. 1494 & 1496 Fulton St.

D. 3921 Lincoln Way

E. 455 Eddy St. #E-305

VI. Communications

VII. Director's Report

VIII. Consideration of Allegations of Wrongful Evictions

IX. Old Business

A. Attorney's Fees under Ordinance Section 37.9(f)

(Schneider v. Dervin)

B. Channing Amendments

IV. Remarks from the Public (cont.)

X. New Business

XI. Appeal Hearing

6:00 2837 - 23rd St.

M001-10A

(cont. from 1/15/93)

(Rescheduled from 7/20/93)

XII. Calendar Items

IX. Adjournment

0252M

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MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO  
RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD

Tuesday, August 3, 1993 at 5:30 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level

\*\*\*\*\*

I. Call to Order

President Schlichtmann called the meeting to order at 5:40 p.m.

II. Roll Call

Commissioners Present: Becker; Coffino; Gruber;  
How; Lightner; Marshall;  
Nash; Schlichtmann.

Commissioners not Present: Stephenson.  
Staff Present: Grubb; Wolf.

III. Approval of the Minutes

MSC: To approve the Minutes of August 3, 1993.  
(Gruber/Marshall: 5-0)

IV. Remarks from the Public

Al Goodwin welcomed the new Commissioners and advised the Board that he felt that some hearing officers do not adequately review their cases prior to conducting hearings.

V. Consideration of Appeals

A. 1385 Greenwich St. N002-10R (cont. from 7/20/93)

The landlord's petition for certification of capital improvement costs was granted, in part, by the hearing officer. The tenant in one unit appealed on the basis of financial hardship, but failed to provide any documentation regarding her income and resources. The Board continued the matter for two weeks in order for the tenant to furnish additional information, which was timely received.

MSC: To accept the tenant's appeal and schedule a Board hearing on the issue of financial hardship.  
(Marshall/Coffino: 5-0)

B. 700 - 29th Ave. #8

0001-01R

The tenant's petition alleging the landlord's failure to perform requested repairs was denied due to the tenant's not having proved that the cited problems constituted code violations, nor that the landlord had been put on notice of the specific problems. The tenant appeals, asserting that the hearing officer was biased against him.

MSC: To excuse Commissioner Becker from consideration of this appeal. (Becker/Marshall: 5-0)

MSC: To deny the appeal. (Gruber/Marshall: 5-0)

C. 1494 & 1496 Fulton St. 0001-01A

The tenants in three units of this four-unit building filed petitions alleging decreased housing services due to extreme vibrations emanating from "double and triple-loader" washing machines operating in a ground floor laundromat. One tenant's petition was dismissed due to her failure to appear; the other tenants' petitions were granted, and rent reductions in the amounts of \$100 and \$150 per month were granted by the hearing officer. The landlord appeals, questioning the proper division of the amounts among the tenants; asserting that work that rectified the problem was completed prior to the issuance of the decision; and objecting to the fact that the hearing officer who wrote the decision was not the person who held the hearing.

MSC: To remand the case for a new hearing on issues 1, 2 and 3 raised by the landlord in her appeal; to deny the appeal as to all other issues. (Marshall/Becker: 5-0)

D. 3921 Lincoln Way

0001-02A

The tenant's petition alleging decreased housing services was granted, in part, by the hearing officer. The landlord was found liable to the tenant in the amount of \$945.00 due to cracked and chipped paint on windows and window sills, loss of storage space during a period of construction in the building, and loss of use of the garage. On appeal, the landlord asserts that under the terms of a conciliation agreement, the tenant was obligated to get a BBI Notice of Violation regarding the condition of the window sills, which she failed to do.

MSC: To deny the appeal. (Marshall/Becker: 4-1; Gruber dissenting)

0254M



E. 455 Eddy St. #E-305

0001-02R

The tenant's petition alleging unlawful increases in his rent was denied, as the hearing officer found all prior increases to be within limitations. On appeal, the tenant maintains that the hearing officer is mistaken; and that he did not receive notice of the 1991 annual increase thirty days prior to its imposition.

MSC: To deny the appeal.. (Lightner/Gruber: 5-0)

VI. Communications

In addition to communications regarding cases on tonight's calendar, the Board received the appeal decision in the case at 248A - 29th Street (N001-99R), which was approved and signed by President Schlichtmann.

VII. Director's Report

Executive Director Grubb informed the Commissioners that the long-awaited office Procedures Manual has been completed and disseminated to all staff.

VIII. Old Business

A. Attorney's Fees under Ordinance Section 37.9(f)

The Commissioners discussed a request from Attorney Thomas Eastridge that the Board file an amicus brief on behalf of the plaintiff in the case of Schneider v. Dervin (Superior Court No. 908127), currently pending before the First District Court of Appeal. The issue presented is the recovery of attorneys' fees by the "prevailing party" under Ordinance Section 37.9(f). The Commissioners continued the discussion until the August 24th meeting; Deputy City Attorney Ilene Dick will be asked to attend.

B. Channing Amendments

The Board discussed possible amendments to the Rent Ordinance resulting from the Channing case involving the Berkeley Rent Board. The issue concerns payments to tenants displaced as the result of an "Ellis" removal of a unit from housing use. A reordered version, drafted by Commissioner Coffino, was distributed and approved by the other Commissioners, with one change. The Deputy City Attorney will be asked to draft final language for approval at the September 7th meeting.

IX. Remarks from the Public (cont.)

Al Goodwin requested that the Board's discussion on August 24th regarding attorneys' fees under Ordinance Section 37.9(f) be held in public, and not in Executive Session.

X. Calendar Items

August 10, 1993 - NO MEETING.

August 17, 1993 - NO MEETING

August 24, 1993

9 appeal considerations

6:00 Appeal Hearing: 904 Pine St. #3 (N002-12R) (acpt. 7/20/93)  
Old Business: Attorney's fees under Ordinance Section  
37.9(f)

XI. Adjournment

President Schlichtmann adjourned the meeting at 7:50 p.m.



NOTICE OF THE REGULAR MEETING OF THE SAN  
FRANCISCO RESIDENTIAL RENT STABILIZATION  
& ARBITRATION BOARD, Tuesday, 5:30 p.m.  
August 24, 1993

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25 Van Ness Avenue, #70, Lower Level  
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AGENDA

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I. Call to Order

II. Roll Call

III. Approval of the Minutes

IV. Remarks from the Public

V. Consideration of Appeals

|    |                        |          |
|----|------------------------|----------|
| A. | 2036 Green St. #4      | 0001-03A |
| B. | 225-A Pierce Street    | 0001-06A |
| C. | 121 Broderick Street   | 0001-05A |
| D. | 499 Alabama St. #323   | 0001-04A |
| E. | 2743 Harrison Street   | 0001-03R |
| F. | 1369 Hyde Street       | 0001-07A |
| G. | 195 - 16th Ave. #4     | 0001-08A |
| H. | 802 Hayes St. #3       | 0001-04R |
| I. | 3207 Mission Street #9 | 0001-09A |

VI. Communications

VII. Director's Report

VIII. Consideration of Allegations of Wrongful Evictions

IX. Old Business

Attorney's Fees under Ordinance Section 37.9(f)  
(Schneider v. Dervin)

IV. Remarks from the Public (cont.)

X. New Business

AB264 Acosta

XI. Appeal Hearing

6:00 904 Pine St. #3

N002-12R (acpt 7/20/93)

XII. Calendar Items

IX. Adjournment

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MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO  
RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD  
Tuesday, August 24, 1993 at 5:30 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level

\*\*\*\*\*

I. Call to Order

President Schlichtmann called the meeting to order at 5:35 p.m.

II. Roll Call

|                            |  |
|----------------------------|--|
| Commissioners Present:     | Becker; Gruber; Lightner;<br>Marshall; Nash; Schlichtmann. |
| Commissioners not Present: | Coffino; Stephenson.                                       |
| Staff Present:             | Grubb; Wolf.   |

Commissioner How appeared on the record at 5:40 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of August 3, 1993 with the following corrections: The vote on the second motion regarding the case at 700 - 29th Ave. #8 should read "4-0" instead of "5-0"; and the vote on the motion regarding the case at 3921 Lincoln Way should read "Marshall/Becker: 3-2; Gruber and Lightner dissenting".  
(Marshall/Becker: 5-0)

IV. Remarks from the Public

A member of the public expressed her frustration that her hearing was not scheduled until a date 3 months after the filing of her petition and subsequently got postponed.

V. Consideration of Appeals

A. 2036 Green St. #4                      0001-03A

The tenant's petition alleging decreased housing services was granted, and the landlord was found liable in the amount of \$20 per month for almost three years due to the loss of storage space. The tenant appealed the hearing officer's decision, alleging that the amount of the rent reduction was too small, particularly since the storage was used primarily for 200 cases of wine, which would be especially costly to replace. The Board

accepted the tenant's appeal and remanded the case on the issue of the value of the storage space. On remand, the amount of the rent reduction was determined to be \$100 per month. The landlord appeals the remand decision, asserting that the amount is too high, as the landlord is under no obligation to provide storage suitable for combustible items such as wine, and that they were prejudiced by the fact that the hearing officer who heard the case did not issue the decision.

MSC: To accept the appeal and remand the case for a new hearing to determine the residual value of the remaining storage space in light of the facts of the case. (Marshall/Lightner: 5-0)

#### VI. Old Business

##### A. Attorney's Fees under Ordinance Section 37.9(f)

With Deputy City Attorney Ilene Dick, the Commissioners continued their discussion of a request that the Board file an amicus brief on behalf of the plaintiff in the case of Schneider v. Derwin (Superior Court No. 908127), currently pending before the First District Court of Appeal. The Board decided to file an amicus letter, not as to the facts of the instant case, but on the general principle that the "prevailing party" should not recover attorneys' fees in eviction litigation if the plaintiff had probable cause for filing the lawsuit.

#### VII. Appeal Hearing

904 Pine St. #3 (N002-12R) (acpt. 7/20/93)

The landlord's petition for certification of capital improvement costs was granted by the hearing officer, resulting in a \$29.90 monthly passthrough. The instant tenant's appeal on the basis of financial hardship was accepted by the Board, and calendared for Board hearing. The tenant was not in attendance at the scheduled commencement time and the landlord informed the Board that he had received a letter from the tenant stating that she would pay the noticed passthrough. The Commissioners therefore continued this matter pending withdrawal of the tenant's appeal.

#### V. Consideration of Appeals (cont.)

##### B. 225-A Pierce St. 0001-06A

The landlord's petition for certification of capital improvement costs was granted, in part, by the hearing officer. The cost of a new roof was passed through to the tenant, however, the cost of painting the hallway/stairwell was only certified for 19 months --



the period of time the tenant had the benefit of the work, prior to roof leaks causing water damage and peeling paint. On appeal, the landlord asserts that the regulations do not provide for the remedy effected by the hearing officer; that even if the wall is completely repaired, he is barred from ever recovering the costs of the painting; and that the tenant's remedies were to file either a decreased services or failure to repair petition.

MSC: To accept the appeal and remand the case to the same hearing officer on the record to certify the costs of the painting work for the entire amortization period, except for the period during which the tenant derived no benefit. This remedy shall be applied due to the particular facts of this case. If necessary, a remand hearing shall be scheduled. (Gruber/Becker: 5-0)

C. 121 Broderick St. 0001-05A

The landlord's petition for rent increases due to increased operating expenses and capital improvement costs was granted, in part, by the hearing officer. Costs associated with insurance, property taxes, pest control and management were documented by the landlord, but no proof of payment was provided. On appeal, the landlord alleges that the property tax assessor's ledger sheets should constitute sufficient documentation; that a supplemental tax bill need not be paid before it can be included; and that the standard of proof required by hearing officers to justify operating expense increases is too burdensome to landlords.

MSC: To accept the landlord's appeal and remand the case to the same hearing officer in order for the landlord to provide proof of payment of the supplemental taxes. (Marshall/Schlichtmann: 5-0)

D. 499 Alabama St. #323 0001-04A

The tenant's petition alleging unlawful rent increases and a substantial decrease in housing services was granted by the hearing officer, and the landlord was found liable in the amount of \$13,545.00 for rent overpayments dating back to September, 1982 and \$1,550.00 due to the lack of landlord-provided heat, commencing as of January 1991. The landlord, the Project Artaud Corporation, appeals the decision, alleging that: the amounts ordered refunded would impose a financial hardship and threaten the viability of this artist live-work project; there should have been no "reasonable expectation" that heat would be provided, as the spaces are furnished "raw", with improvements to be made by the residents; and that there is no logic to the hearing officer's choice of dates for commencement of rent reductions and refund of

rent overpayments.

After discussion of recent legislation which now exempts public benefit non-profit corporations such as Project Artaud from the provisions of the Rent Ordinance, it was the consensus of the Commissioners to continue this matter for two weeks in order to consult with the City Attorney regarding the issue of jurisdiction.

E. 2743 Harrison St. 0001-03R

The tenant's petition alleging decreased housing services was denied by the hearing officer. The rental unit at issue is unimproved basement space, which the landlord allegedly rents to the tenant solely to keep him from becoming homeless. The hearing officer found that the tenant failed to meet his burden of proof because: housing services had not been decreased by the landlord; there should have been no expectation by the tenant that the premises would be anything but substandard; and there was no verifiable promise by the landlord to improve the conditions prior to commencement of the tenancy. The tenant appeals, alleging that the hearing officer was biased toward the landlord; that since the landlord collects rent, he is obligated to provide habitable premises; and that his living situation is not transitory, but, rather, his home of almost twenty years.

MSC: To deny the appeal. (Lightner/Gruber: 5-0)

F. 1369 Hyde St. 0001-07A

The landlord's petition for certification of capital improvement costs was denied due to his failure to appear at the hearing. On appeal, the landlord submits a Declaration of Non-Receipt of Notice of Hearing. It appears that, due to a clerical error, the Notice of Hearing was sent to Summit Avenue in San Francisco, instead of Summit Avenue in Mill Valley.

MSC: To accept the landlord's appeal and schedule the case for a new hearing. (Marshall/Becker: 5-0)

G. 195 - 16th Ave. #4 0001-08A

The tenant's petition alleging various decreased housing services was denied, except for a \$30.00 per month rent reduction due to mildew in the apartment. On appeal, the landlord alleges that the tenant refused to provide him access to clean the mildew and paint the walls in the unit, and that the tenant stated he would do the work himself. The landlord also correctly maintains that there is a mistake as to the base rent amount in the decision.



MSC: To accept the landlord's appeal on the issue of access to the unit to effectuate the repairs and for a Numerical Correction regarding the amount of the base rent. (Marshall/Schlichtmann: 5-0)

H. 802 Hayes St. #3 0001-04R

The tenant's petition alleging decreased housing services due to the loss of use of a garage was dismissed without a hearing, as the hearing officer found that the issue was res judicata because it had been decided in a previous Decision of Hearing Officer. On appeal, the tenant alleges that he has located receipts that prove that parking was originally included in his rent.

MSC: To deny the appeal. (Lightner/Gruber: 5-0)

I. 3207 Mission St. #9 0001-09A

The tenants' petition alleging decreased housing services, the landlord's failure to repair and unlawful rent increases was granted, in part, by the hearing officer. The landlord was found liable to the tenants in the amount of \$440.00 due to various habitability problems and \$3,829.66 due to rent overpayments. On appeal, the landlord alleges that she failed to appear at the hearing because the tenants allegedly told the manager of the building that everything was all right; that the tenants failed to provide access to the pest control company; that the tenant refused a new refrigerator because she wanted a larger model; and that the rent increases were given with the advice of Rent Board staff.

MSC: In the interests of justice, to accept the landlord's appeal on the issue of the unlawful rent increases only. (Lightner/Gruber: 3-2; Becker, Marshall dissenting)

#### VIII. Communications

In addition to correspondence regarding cases on the calendar, the Commissioners received the following communications:

A. A Memorandum from the Ninth Circuit Court of Appeal affirming the District Court decision in the case of Campbell v. Feinstein.

B. The Board decision in the case concerning 16 Laguna Street (M001-96R), which was approved by the Board and signed by President Schlichtmann.

C. A new Rent Board staff roster.

IX. Director's Report

Executive Director Grubb discussed the workload statistics for the month of July. He informed the Commissioners that Larry Beach Becker will be sworn in as the alternate for tenant Commissioner Barrie Becker on Wednesday, August 25th.

X. New Business

Assembly Bill 264 (Costa) was briefly discussed. As the proposed legislation applies only to jurisdictions without a vacancy decontrol provision in their Ordinance, the Board will take no position.

XI. Calendar Items

August 31, 1993 - NO MEETING

September 7, 1993

5 appeal considerations (1 cont. from 8/24/93)

5:30 Executive Session

Appeal Hearings:

6:00 1385 Greenwich St. #14 (N002-10R) (acpt. 8/3/93)

6:30 1063 Market St. (N001-67A) (acpt. 7/6/93)  
(rescheduled from 8/24/93)

Old Business:

A. Channing Amendments

B. 904 Pine St. #3 (N002-12R) (cont. from 8/24/93)

C. Attorney's fees under Ordinance Section 37.9(f)

September 14, 1993 - NO MEETING

XII. Adjournment

President Schlichtmann adjourned the meeting at 8:30 p.m.



NOTICE OF THE REGULAR MEETING OF THE SAN  
FRANCISCO RESIDENTIAL RENT STABILIZATION  
& ARBITRATION BOARD, Tuesday, 5:30 p.m.  
September 7, 1993

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25 Van Ness Avenue, #70, Lower Level  
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AGENDA

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DOCUMENTS DEPT

NOV 20 2003

SAN FRANCISCO  
PUBLIC LIBRARY

I. Call to Order

II. Roll Call

III. Executive Session

5:30 Pending Litigation - Goux Code Section 54956.9(a)&(b)

IV. Approval of the Minutes

V. Remarks from the Public

VI. Consideration of Appeals

|    |                         |                               |
|----|-------------------------|-------------------------------|
| A. | 499 Alabama Street #323 | 0001-04A (cont. from 8/24/93) |
| B. | 1237 Willard Street     | 0001-10A                      |
| C. | 2715 Folsom Street      | 0001-05R                      |
| D. | 2814 - 23rd Street      | 0001-06R                      |
| E. | 1649 - 15th Street      | 0001-07R                      |

VII. Communications

VIII. Director's Report

IX. Consideration of Allegations of Wrongful Evictions

X. Old Business

|    |   |                               |
|----|---|-------------------------------|
| A. | <u>Channing</u> Amendments  |                               |
| B. | 904 Pine St. #3   | N002-12R (cont. from 8/24/93) |
| C. | Attorney's Fee under Ordinance Section 37.9(f) ( <u>Schneider v. Dervin</u> ) |                               |

V. Remarks from the Public (cont.)

XI. New Business

XII. Appeal Hearings

|      |                        |                            |
|------|------------------------|----------------------------|
| 6:00 | 1385 Greenwich St. #14 | N002-10R (acpt. 8/3/93)    |
| 6:30 | 1063 Market St.        | N001-67A (acpt 7/6/93)     |
|      |                        | (rescheduled from 8/24/93) |

XIII. Calendar Items

XIV. Adjournment  
0257M

## *ACCESSIBLE MEETING POLICY*

American sign language interpreters will be available upon request. Please contact the Rent Board at 554-9558, at least 72 hours prior to the meeting. Late requests will be honored if possible.

The Rent Board will make every effort to accommodate requests to make a sound enhancement system available at the meeting. Please contact the Rent Board at 554-9558, at least 72 hours prior to the meeting. Late requests will be honored if possible.

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"Individuals with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities should call our accessibility hotline at (415) 554-8925 to discuss meeting accessibility. In order to assist the City's efforts to accommodate such people, attendees at public meetings are reminded that other attendees may be sensitive to various chemical based products. Please help the City to accommodate these individuals."

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There is accessible parking available on adjacent streets (Oak Street and Hickory). Metered street parking is also available.



MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO  
RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD  
Tuesday, September 7, 1993 at 5:30 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level

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I. Call to Order

President Schlichtmann called the meeting to order at 5:35 p.m.

II. Roll Call

Commissioners Present: Becker; Becker; Coffino; Gruber;  
How; Nash; Schlichtmann.  
Commissioners not Present: Stephenson.  
Staff Present: Gartzman; Grubb.

Commissioner Lightner appeared on the record at 5:39 p.m. Commissioner Marshall appeared on the record at 5:51 p.m.

III. Executive Session

At 5:37 p.m., the Commissioners went into Executive Session pursuant to Government Code Section 54956.9 (b)(1) to discuss matters where significant exposure to litigation exists and returned on the record at approximately 6:30 p.m.

IV. Approval of the Minutes

MSC: To approve the minutes of August 24, 1993.  
(Lightner/Gruber: 5-0)

V. Appeal Hearings

A. 1385 Greenwich St. #14 N002-10R (accepted 8/3/93)

The landlord's petition for certification of capital improvement costs was granted, in part, by the hearing officer. The tenant in unit 14 appealed the decision on the basis of financial hardship. At their meeting of August 3, 1993, the Commissioners voted to accept the tenant's appeal for a Board hearing on the issue of financial hardship.

The tenant and two representatives for the landlord appeared at the September 7, 1993 Board hearing. Following testimony and argument from both parties, the Board passed the following motion:

MSC: To find that imposition of the capital improvement  
passthrough would be a financial hardship to the tenant  
of unit 14.  
(Coffino/B. Becker: 5-0)

No decision was made concerning what action the Board would take as a result of the finding of financial hardship because the landlord claims that disallowance, reduction or deferral of the passthrough to the tenant would result in financial hardship to the landlord. The Board decided to reconvene the hearing on October 5, 1993 in order to consider the landlord's claim of financial hardship. The landlord's representatives were instructed to provide the Board and the tenant with documentation supporting the landlord's hardship claim by September 27, 1993.

B. 1063 Market Street

N001-67A (accepted 7/6/93)  
(rescheduled from 8/24/93)

The petitioner was employed as a security guard by the landlord, who leased this commercial property from the owner to run an electronic game business. After commencement of his employment, the petitioner requested the landlord's permission to reside in a storage/office area on the second floor of the building. The landlord consented, provided that the petitioner would vacate when the second floor was renovated. The petitioner paid rent to the landlord through periodic deductions from his paycheck. Once the renovation started, the petitioner moved to the mezzanine area with the landlord's consent and resided there without paying rent. After the petitioner's employment was terminated, the landlord denied the petitioner access to the shower in the basement. Subsequently, the landlord sought to evict the petitioner from the premises, claiming that he was a licensee, not a tenant, and that his occupancy of the premises was a condition of employment. The petitioner failed to vacate the premises pursuant to the termination notice. He filed a Report of Alleged Wrongful Eviction with the Board and a petition for arbitration alleging decreased housing services for lack of access to the shower.

Although the Hearing Officer determined that the petitioner was a "tenant" within the meaning of the Ordinance, and that the attempted eviction was in violation of the Ordinance, the petition for a rent reduction based on decreased housing service was denied because the petitioner had not paid or owed any rent since the service was denied. On appeal, the landlord asserted that the petitioner is not a "tenant" as defined in the Rent Ordinance. He also requested that the finding of wrongful eviction be stricken.

At their meeting of July 6, 1993, the Commissioners voted to accept the appeal on the issue of whether there was a substantial decrease in housing services. The Board was particularly interested in arguments and facts on whether the petitioner-appellee falls within the definition of a tenant. The Board declined to consider the wrongful eviction issue, for lack of authority to do so.

The tenant and landlord appeared at the September 7, 1993 Board hearing with their attorneys and witnesses. Following testimony and argument from both parties, the Board passed the following motion:



MSC: To grant the landlord's appeal and to deny the petition because the petitioner/appellee does not qualify as a "tenant" under the Rent Ordinance as his occupancy of the premises was incidental to his employment by the landlord/appellant.  
(Coffino/Lightner: 5-0)

VI. Consideration of Appeals

A. 499 Alabama Street #323 0001-04A (cont. from 8/24/93)

The tenant's petition alleging unlawful rent increases and a substantial decrease in housing services was granted by the hearing officer, and the landlord was found liable in the amount of \$13,545.00 for rent overpayments dating back to September, 1982 and \$1,550.00 due to the lack of landlord-provided heat, commencing as of January 1991. The landlord, the Project Artaud Corporation, appeals the decision, alleging that: the amounts ordered refunded would impose a financial hardship and threaten the viability of this artist live-work project; there should have been no "reasonable expectation" that heat would be provided, as the spaces are furnished "raw", with improvements to be made by the residents; and that there is no logic to the hearing officer's choice of dates for commencement of rent reductions and refund of rent overpayments.

At their August 24, 1993 meeting, the Commissioners agreed to continue consideration of the landlord's appeal for two weeks in order to consult with the City Attorney regarding the issue of jurisdiction in light of recently enacted legislation which now exempts from the Ordinance certain public benefit non-profit corporations.

The tenant urged the Board to deny the landlord's appeal because the Ordinance amendment was not effective until August 22, 1993, after the tenant's petition was filed, heard and decided by the Hearing Officer. Furthermore, she questions whether the landlord's existing by-laws meet the requirements of the new Ordinance exemption.

MSC: To accept the landlord's appeal for Board hearing on the following issues only: the landlord's claim of exemption from the Ordinance, to be briefed by the parties prior to the hearing; landlord financial hardship; and, the date of commencement of the rent reduction for decreased housing services (heat).  
(Marshall/B. Becker: 5-0)

B. 1237 Willard Street 0001-10A

The landlords appeal a \$200.00/month rent reduction granted to the tenants for the period from mid-June 1992 through mid-February 1993 due to inadequate heat in the rental unit. The appeal is based on three grounds: (1) the decision was rendered by a Hearing Officer who did not conduct the hearing, in violation of the landlords' due process rights; (2) witness credibility concerning the tenants' giving of notice of decreased housing services to the landlords was improperly decided through review of  
0286g



audiotapes rather than through personal observation of the witness' demeanor; and, (3) a post-hearing submission to rebut hearsay testimony was not received nor reviewed by the hearing officer who rendered the decision.

MSC: To accept the appeal and to remand the case to the same hearing officer who rendered the decision only on the issue of notice to the landlords by the tenants between June 1992 and January 1993. (Lightner/Gruber: 3-2; B. Becker, Coffino dissenting)

C. 2715 Folsom Street 0001-05R

The tenants' petition alleging decreased housing services without a corresponding reduction in rent was dismissed due to the tenants' failure to appear for the hearing within twenty minutes of the scheduled hearing time. The tenants appeared for the hearing twenty-five minutes late due to car trouble and heavy traffic. However, no hearing was held because the landlord's representative and the tenants' interpreter/representative had already departed after being told that the case was dismissed. The tenants' appeal of the dismissal was filed one day late, without explanation. A letter mailed to the tenants by Rent Board staff requesting a reason for the late appeal was unanswered.

After discussion of the tenants' apparently limited English-speaking ability, it was the consensus of the Board to continue consideration of the appeal until September 21, 1993 in order to contact the tenants, through their interpreter/representative, and request an explanation for the late filing of their appeal.

D. 2814 - 23rd Street 0001-06R

The tenant's petition alleging decreased housing services without a corresponding reduction in rent was dismissed due to the tenant's failure to appear for the hearing within twenty minutes of the scheduled hearing time. The tenant appeared for the hearing twenty-five minutes late due to verified car trouble. However, no hearing was held because the landlord's agent had already departed after being told that the case was dismissed.

MSC: To accept the appeal and to remand the case for a new hearing. (Marshall/Coffino: 5-0)

E. 1649 - 15th Street 0001-07R

The tenant's petition alleging decreased housing services without a corresponding reduction in rent was dismissed due to the tenant's failure to appear. The notice of the hearing was returned to the Rent Board as undeliverable because the tenant moved and left no forwarding address. On appeal, the tenant filed a Declaration of Non-receipt of Notice of Hearing, stating that 0286g

she was afraid to leave her forwarding address and failed to inform the Rent Board of her mailbox address because she was "so stressed under the derelict conditions of the apartment."

MSC: To accept the appeal and to remand the case for a new hearing.  
(Lightner/Marshall: 5-0)

## VII. Communications

In addition to correspondence regarding cases on the calendar, the Commissioners received the following communications:

- A. A confidential Attorney-Client letter regarding the September 7, 1993 Executive Session.
- B. A confidential Attorney-Client Memorandum.
- C. The Rent Board monthly statistics for July 1993.

## VIII. Director's Report

A. The recently enacted Sunshine Ordinance will take effect on December 16, 1993 and will have a minor impact on the Rent Board.

B. Conflict of interest forms from the newly-appointed Commissioners should be completed by mid-October 1993.

C. Except for September 27, 1993, the Director will be on vacation for three weeks, commencing September 14, 1993.

## IX. Old Business

A. Channing Amendments - discussion continued to September 21, 1993 meeting.

B. 904 Pine St. #3                      N002-12R (cont. from 8/24/93)

MSC: To continue this matter to September 21, 1993 to allow the tenant an opportunity to explain her failure to appear at the appeal hearing on August 24, 1993.  
(Lightner/Coffino: 5-0)

C. Attorney's Fees under Ordinance Section 37.9(f) (Schneider v. Dervin) - discussion continued to September 21, 1993 meeting.

## X. Calendar Items

September 14, 1993 - NO MEETING

September 21, 1993

6 appeal considerations (1 cont. from 9/7/93)

6:00 Appeal hearing:

3207 Mission St. #9                      0001-09A (accepted 9/7/93)

Old Business:

A. 904 Pine St. \$3                      N002-14R (cont. from 9/7/93)

B. Attorney's Fees under Ordinance Section 37.9(f)  
(Schneider v. Dervin)

Executive Session:

Exposure to Litigation - Govt. Code Sec. 54956.9(b)(1)

September 28, 1993 - NO MEETING

October 5, 1993

1 appeal hearing

XI. Adjournment

The meeting was adjourned by President Schlichtmann at 9:54 p.m.



NOTICE OF THE REGULAR MEETING OF THE SAN  
FRANCISCO RESIDENTIAL RENT STABILIZATION  
& ARBITRATION BOARD, Tuesday, 5:30 p.m.  
September 21, 1993

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25 Van Ness Avenue, #70, Lower Level  
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AGENDA

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I. Call to Order

II. Roll Call

III. Approval of the Minutes

IV. Remarks from the Public

V. Consideration of Appeals

|                             |                              |
|-----------------------------|------------------------------|
| A. 2715 Folsom Street       | 0001-05R (cont. from 9/7/93) |
| B. 940-42 Hayes Street      | 0001-12A                     |
| C. 2334 Mission St. #8      | 0001-08R                     |
| D. 493 Haight St. #25       | 0001-10R                     |
| E. 3250 - 17th Street Upper | 0001-13A                     |
| F. 3207 Mission Street #9   | 0001-09R                     |

VI. Communications

VII. Director's Report

VIII. Consideration of Allegations of Wrongful Evictions

IX. Old Business

|  |                              |
|--|------------------------------|
| A. 904 Pine St. #3                                 | N002-14R (cont. from 9/7/93) |
| B. Attorneys' Fees under Ordinance Section 37.9(f) |                              |
| <u>(Schneider v. Dervin)</u>                       |                              |

IV. Remarks from the Public (cont.)

X. New Business

XI. Appeal Hearing

|                          |                          |
|--------------------------|--------------------------|
| 6:00 3207 Mission St. #9 | 0001-09A (acpt. 8/24/93) |
|--------------------------|--------------------------|

XII. Executive Session

Exposure to Litigation - Govt. Code Section 54956.9(b)(1)

XIII. Calendar Items

XIV. Adjournment  
0259M

## *ACCESSIBLE MEETING POLICY*

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MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO  
RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARDTuesday, September 21, 1993 at 5:30 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level

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I. Call to Order

Vice-President Marshall called the meeting to order at 5:40 p.m.

II. Roll Call

|                            |   |
|----------------------------|---|
| Commissioners Present:     | Becker; Becker; Coffino;<br>Gruber; How; Lightner;<br>Marshall; Nash. |
| Commissioners not Present: | Schlichtmann; Stephenson.   |
| Staff Present:             | Wolf.   |

III. Approval of the MinutesMSC: To approve the Minutes of September 7, 1993.  
(B. Becker/Gruber: 5-0)IV. Consideration of AppealsA. 2715 Folsom St. 0001-05R  
(cont. from 9/7/93)

The tenants' petition alleging decreased housing services was dismissed due to the tenants' failure to appear for the hearing within twenty minutes of the scheduled hearing time. The tenants appeared for the hearing twenty-five minutes late due to car trouble and heavy traffic. However, no hearing was held because the landlord's representative and the tenants' interpreter/representative had already departed after being told that the case was dismissed. The tenants' appeal of the dismissal was filed one day late, without explanation. A letter mailed to the tenants by Rent Board staff requesting a reason for the late appeal was unanswered.

At the September 7, 1993 meeting, the Commissioners discussed the tenants' apparently limited English-speaking ability, and decided to continue consideration of the appeal in order to contact the tenants, through their representative. Subsequently, a letter was received from the tenant explaining that he had been hospitalized as the result of an assault, and was therefore unable to file his appeal in a timely manner. A letter from his doctor verifying his statement was also provided.





MSC: To find good cause for the late filing of the appeal. (B. Becker/Coffino: 5-0)

MSC: To accept the tenant's appeal and remand the case for a new hearing.  
(B. Becker/Marshall: 5-0)

B. 940-42 Hayes St. 0001-12A

The landlord's petition for certification of capital improvement costs was granted, in part, by the hearing officer. However, the amount of \$37,800.00 allegedly spent on exterior painting of the building was not certified, as the landlord provided only checks written to an individual, with no contract, bill or invoice showing what the monies were expended for. On appeal, the landlord produces a letter from the painting contractor verifying that he completed the paint job for the amount claimed by the landlord.

MSC: To accept the landlord's appeal and remand the case to the same hearing officer for a new hearing. (Lightner/Gruber: 5-0)

C. 2334 Mission St. #8 0001-08R

The tenant's petition alleging decreased housing services was dismissed due to his failure to appear at the properly noticed hearing. On appeal, the tenant asserts that he did not receive notice of the hearing, and submits a Declaration of Non-Receipt of Notice of Hearing to support his claim.

MSC: To accept the tenant's appeal and remand the case for a new hearing. (Lightner/Gruber: 5-0)

D. 493 Haight St. #25 0001-10R

The tenant's petition alleging various decreased housing services was granted, in part, by the hearing officer and the landlord was found liable to the tenant for commensurate rent reductions in the amount of \$780.00. The tenant appeals the decision, alleging that the amounts granted were too low; and that verifiable notice was given to the landlord in the form of certified letters, which the landlord failed to pick up at the post office. A recent letter from the landlord's attorney claims that the parties have settled this matter, and that, as part of the settlement, the tenant agreed to withdraw her Rent Board petition and appeal. It was therefore the consensus of the Board to continue this matter pending notification from the tenant as to whether she wishes to pursue her appeal.



E. 3250 - 17th St., Upper 0001-13A

The tenant's petition alleging decreased housing services and unlawful rent increases was granted, in part, by the hearing officer. The landlord was found liable to the tenant in the amount of \$1,500.00 for rent overpayments and \$1,600.00 due to habitability problems in the unit. On appeal, the landlord alleges that the rent was set at \$1800.00 per month during a period of owner-occupancy exemption, and that this amount was discounted to \$1500.00 temporarily. Therefore, the landlord maintains that three \$100 rent increases were actually just a "phase-in" of the agreed-upon base rent. The landlord also asserts that the solar heating system is adequate except for three days out of the year; the water damage in the closet was minor and repaired immediately after the hearing for less than \$100.00; and it was the tenant who discontinued baiting for rodents due to his concern regarding pets on the premises.

MSC: To deny the appeal. (B. Becker/Marshall: 3-2; Gruber, Lightner dissenting)

F. 3207 Mission St. #9 0001-09R

The tenants' appeal was filed 18 days late because they were out of the country. The tenants provided documentation that showed that they were away for one month; this was at the same time that the hearing officer's decision was mailed.

MSC: To find good cause for the late filing of the appeal. (B. Becker/Marshall: 5-0)

The tenants' petition alleging decreased housing services, the landlord's failure to repair and unlawful rent increases was granted, in part, by the hearing officer. The landlord was found liable to the tenants in the amount of \$440.00 due to various habitability problems and \$3,829.66 due to rent overpayments. At the meeting of August 31, 1993, the landlord's appeal was accepted for Board hearing on the issue of the unlawful rent increases only. The tenants' appeal seeks to clarify that some of the claims made by the landlord in her appeal, that she had rectified certain of the defective conditions, are untrue.

MSC: To accept the tenants' appeal on the issue of repair of the light fixture only; and to consolidate this matter with the landlord's appeal hearing scheduled on tonight's calendar. (Coffino/B. Becker: 5-0)



V. Appeal Hearing

3207 Mission St. #9

0001-09A & 0001-09R  
(acpt. 8/24/93)

The tenants' petition alleging decreased housing services, the landlord's failure to repair and unlawful rent increases was granted, in part, by the hearing officer. The landlord was found liable to the tenants in the amount of \$440.00 due to various habitability problems in the unit and \$3,829.66 due to rent overpayments. The landlord's appeal was accepted on the issue of the rent overpayments only; the tenants' appeal was accepted on the issue of repair of the light fixture only.

The landlord appeared at the Board hearing accompanied by a witness. The tenants appeared and represented themselves. At the outset of the appeal hearing, the landlord agreed to waive ten-day notice of the hearing on the tenants' appeal, in the interests of expediency. Testimony focused on the circumstances surrounding the issuance by the landlord of a banked rent increase in excess of limitations. The landlord asserted that a clerical error on the part of her bookkeeper could explain a charge for two years when the tenants did not occupy the unit. Testimony was also taken regarding the issue of repair of the light fixture.

Upon conclusion of the hearing, the Commissioners discussed the case and decided to defer action on the landlord's appeal pending an opinion from the City Attorney regarding the Board's ability to waive the null and void provisions of the Ordinance. The Board passed the following motion regarding the tenants' appeal:

MSC: As the light fixture has been repaired, no  
continuing rent reduction is warranted.  
(Lightner/Gruber: 5-0)

VI. Communications

In addition to correspondence regarding cases on the calendar, the Commissioners received the following communications:

A. A letter from a member of the public regarding the late issuance of the hearing officer's decision in his case.

B. The Board decision in the case concerning 1350 Pine Street #406 (N001-54A), which was approved by the Board and signed by Vice-President Marshall.



VII. Director's Report

In the absence of Executive Director Grubb, Deputy Director Wolf informed the Board that Commissioner Schlichtmann gave birth to a baby boy named Christopher on Sunday, September 19th. Mom, dad and baby are doing well.

VIII. Old Business

A. 904 Pine St. #3

N002-14R  
(cont. from 9/7/93)

The landlord's petition for certification of capital improvement costs was granted by the hearing officer, resulting in a \$29.90 monthly passthrough. The tenant's appeal on the basis of financial hardship was accepted by the Board, and calendared for Board hearing. The tenant was not in attendance at the scheduled commencement time for the appeal hearing on August 31, 1993, and the landlord informed the Board that he had received a letter from the tenant stating that she would pay the noticed passthrough. The Commissioners therefore continued the matter pending withdrawal of the tenant's appeal.

The Executive Director contacted the tenant by telephone, and was informed by her that she wished to proceed with her appeal. He advised her that she should forward a written explanation of her non-appearance to the Commissioners prior to their next scheduled meeting on September 7, 1993. At the meeting of September 7th, as nothing had been received from the tenant, the Board again continued this matter to allow the tenant an opportunity to explain her failure to appear. The Executive Director wrote the tenant a letter, stating that her failure to submit something in writing by September 21st would result in the dismissal of her appeal. As nothing was received from the tenant, the Board passed the following motion:

MSC: To dismiss the tenant's appeal. The hearing officer's decision is therefore final.  
(Coffino/Lightner: 5-0)

B. Attorney's Fees under Ordinance Section 37.9(f)

The Commissioners continued their discussion of the draft amicus brief that the Board is considering filing in the case of Schneider v. Dervin (Superior Court No. 908127), currently pending before the First District Court of Appeal. Because of deadline constraints, it was decided to file the application immediately; Commissioner Coffino will work on re-drafting the brief to address his concerns and those raised by Commissioner Lightner.





IX. Executive Session

At 9:10 p.m., the Commissioners went into Executive Session pursuant to Government Code Section 54956.9(b)(1) to discuss matters where significant exposure to litigation exists and returned on the record at 9:15 p.m.

X. Calendar Items

September 28, 1993 - NO MEETING

October 5, 1993

7 appeal considerations

6:00 Appeal hearing: 1385 Greenwich St. #14 (N002-10R)  
(cont. from 9/7/93)

Old Business: 3207 Mission St. #9 (O001-09A)  
(heard 9/21/93)

Executive Session

October 12, 1993 - NO MEETING

XI. Adjournment

Vice-President Marshall adjourned the meeting at 9:20 p.m.





NOTICE OF THE REGULAR MEETING OF THE SAN  
FRANCISCO RESIDENTIAL RENT STABILIZATION  
& ARBITRATION BOARD, Tuesday, 5:30 p.m.  
October 5, 1993

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25 Van Ness Avenue, #70, Lower Level  
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AGENDA

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I. Call to Order

II. Roll Call

III. Approval of the Minutes

IV. Remarks from the Public

V. Consideration of Appeals

|    |                         |          |
|----|-------------------------|----------|
| A. | 1720 Divisadero St.     | 0001-14A |
| B. | 1915 Green St.          | 0001-15A |
| C. | 1175-A Oak St.          | 0001-12R |
| D. | 1428 Fulton St. #4      | 0001-16A |
| E. | 309 - 5th Ave. #4       | 0001-17A |
| F. | 391 Leavenworth St.     | 0001-18A |
| G. | 760 Northpoint St. #304 | 0001-20A |

VI. Communications

VII. Director's Report

VIII. Consideration of Allegations of Wrongful Evictions

IX. Old Business

|                     |                      |
|---------------------|----------------------|
| 3207 Mission St. #9 | 0001-09A             |
|                     | (cont. from 9/21/93) |

IV. Remarks from the Public (cont.)

X. New Business

XI. Appeal Hearing

|      |                        |                     |
|------|------------------------|---------------------|
| 6:00 | 1385 Greenwich St. #14 | N002-10R            |
|      |                        | (cont. from 9/7/93) |

XII. Executive Session

Exposure to Litigation - Govt. Code Section 54956.9(b)(1)

XIII. Calendar Items

XIV. Adjournment



NOTICE OF THE REGULAR MEETING OF THE SAN  
FRANCISCO RESIDENTIAL RENT STABILIZATION  
& ARBITRATION BOARD, Tuesday, 5:30 p.m.

October 5, 1993

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25 Van Ness Avenue, #70, Lower Level

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## REVISED AGENDA

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I. Call to Order

II. Roll Call

III. Approval of the Minutes

IV. Remarks from the Public

V. Consideration of Appeals

|                            |          |
|----------------------------|----------|
| A. 1720 Divisadero St.     | 0001-14A |
| B. 1915 Green St.          | 0001-15A |
| C. 1175-A Oak St.          | 0001-12R |
| D. 1428 Fulton St. #4      | 0001-16A |
| E. 309 - 5th Ave. #4       | 0001-17A |
| F. 391 Leavenworth St.     | 0001-18A |
| G. 760 Northpoint St. #304 | 0001-20A |

VI. Communications

VII. Director's Report

VIII. Consideration of Allegations of Wrongful Evictions

IX. Old Business

|  |                      |
|--|----------------------|
| A. 3207 Mission St. #9                             | 0001-09A             |
|  | (cont. from 9/21/93) |
| B. Attorneys' Fees under Ordinance Section 37.9(f) |                      |
| <u>(Schneider v. Dervin)</u>                       |                      |

IV. Remarks from the Public (cont.)

X. New Business

XI. Appeal Hearing

|                             |                     |
|-----------------------------|---------------------|
| 6:00 1385 Greenwich St. #14 | N002-10R            |
|                             | (cont. from 9/7/93) |

XII. Executive Session

Exposure to Litigation - Govt. Code Section 54956.9(b)(1)

XIII. Calendar Items

XIV. Adjournment

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## ***ACCESSIBLE MEETING POLICY***

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There is accessible parking available on adjacent streets (Oak Street and Hickory). Metered street parking is also available.





MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO  
RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD

Tuesday, October 5, 1993 at 5:30 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level

\*\*\*\*\*

I. Call to Order

Vice-President Marshall called the meeting to order at 5:35 p.m.

II. Roll Call

Commissioners Present: Becker; Becker; Coffino;  
Lightner; Marshall; Nash.  
Commissioners not Present: Gruber; How; Schlichtmann.  
Staff Present: Grubb; Wolf.

Commissioner Steane appeared on the record at 5:50 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of September 21, 1993.  
(B. Becker/Lightner: 5-0)

IV. Executive Session

At 5:40 p.m., the Commissioners went into Executive Session pursuant to Government Code Section 54956.9(a) to discuss litigation against the agency with Deputy City Attorney Ilene Dick and returned on the record at 5:50 p.m.

V. Old Business

The Board discussed issues pertaining to the September 21, 1993 appeal hearing on the case at 3207 Mission St. #9 (0001-09A) with Deputy City Attorney Ilene Dick. The Commissioners asked questions regarding the amount of discretion they have concerning enforcement of the null and void provisions of the Ordinance.

VI. Consideration of Appeals

A. 391 Leavenworth St. 0001-18A

Two tenant petitions alleging decreased housing services, the landlord's failure to make requested repairs, an improper PG&E passthrough and unlawfully increased rent were granted, in part, by the hearing officer. The premises are a single room occupancy

residential hotel. The landlord was found liable to the tenants in the amounts of \$130.00 and \$250.00 due to a change in the overnight guest policy, loss of access to the roof garden, and a ceiling leak resulting in a hazardous electrical problem. On appeal, the landlord explains the health and safety reasons behind certain policy changes, and claims that the roof leak was remedied within a few days.

MSC: To excuse Commissioner Marshall from consideration of this appeal. (Marshall/Lightner: 5-0)

MSC: To deny the appeal. (Coffino/Steane: 3-2; Lightner, Nash dissenting)

#### VII. Appeal Hearing

1385 Greenwich St. #14

N002-10R (cont. from 9/7/93)

The landlord's petition for certification of capital improvement costs was granted, in part, by the hearing officer. The tenant in unit #14 appealed the decision on the basis of financial hardship. At their meeting of August 3, 1993, the Commissioners voted to accept the tenant's appeal for a Board hearing on the issue of financial hardship.

At the September 7, 1993 Board hearing, the Commissioners examined evidence and heard testimony regarding the tenant's income and resources, and passed a motion finding that imposition of the capital improvement passthrough would be a financial hardship to the tenant. No decision was made, however, concerning what action the Board would take as a result of the finding of financial hardship because the landlord raised a claim of financial hardship as well. The Board therefore continued the matter to the October 5, 1993 meeting in order to consider the landlord's claim of financial hardship.

At the October 5th Board meeting, testimony and evidence were proffered regarding the landlord's financial circumstances. In order for the tenant's representative to be able to thoroughly examine the documentation provided by the landlord's attorney, the case was further continued to the October 26, 1993 Board meeting.

#### VI. Consideration of Appeals (cont.)

B. 1720 Divisadero St.

0001-14A

The landlord's appeal was filed 34 days late because the landlord stated that he was out of the country.

MSC: To find good cause for the late filing of the appeal. (Coffino/Lightner: 5-0)

The tenant's petition alleging decreased housing services and the landlord's failure to repair was granted, in part, by the hearing officer. The landlord was found liable to the tenant in the amount of \$445.00 for the condition of the kitchen floor and the ceiling in a room near the kitchen, lack of pest control and an inoperative bedroom door. The annual rent increase was also deferred until code violations are abated and 30-day notice of restoration of the prior rent is issued. On appeal, the landlord asserts that the amounts of the rent reductions are excessive; and that the tenant failed to provide him access to make the repairs.

MSC: To deny the appeal. (Coffino/Marshall: 5-0)

C. 1915 Green St. 0001-15A

The landlord's petition for certification of capital improvement costs was granted by the hearing officer. The portion of the petition asking for an increase based on increased operating expenses was denied because the proven cost increases did not exceed the allowable 1.9% increase. On appeal, the landlord alleges that tax assessor ledger sheets and a computer printout from the garbage collection company constituted sufficient proof of payment.

MSC: To accept the landlord's appeal and remand the case to the same hearing officer on the record.  
(Lightner/Marshall: 5-0)

D. 1175-A Oak St. 0001-12R

The tenants' appeal was filed one day late because the tenants allege that they calculated the deadline from the date of postmark on the letter, instead of the date of mailing the decision.

MSC: To find good cause for the late filing of the appeal. (Coffino/Marshall: 5-0)

The landlord's petition for certification of capital improvement costs for a new roof was granted by the hearing officer. The tenants in one unit appeal, alleging that the landlord's evidence was unreliable and that the substandard conditions at the premises should preclude any additional increase in rent.

MSC: To deny the appeal. (Coffino/Lightner: 5-0)

E. 1428 Fulton St. #4 0001-16A

The tenants' petition alleging decreased housing services was granted, in part, by the hearing officer. The landlord was found liable to the tenants in the amount of \$2,025.00 due to an "unfinished" bathroom, a water-damaged ceiling and falling

plaster, and problems associated with pet odors and waste in the building. The landlord appeals, asserting that: the facts do not support the findings; the petitioners failed to meet their burden of proof; the rent reductions should not have gone back more than one year; and that a Statute of Limitations should apply, as the problems had been resolved long before the tenants filed their petition.

MSC: To accept the landlord's appeal and remand the case to the same hearing officer to determine whether a laches analysis bars any of the refunds for problems that had been cured prior to the hearing. (Lightner/Coffino: 5-0)

F. 760 Northpoint St. #304 0001-20A

The landlord's appeal was filed 33 days late because the prior owner, and not the current landlord, was served with notice of the hearing.

MSC: To find good cause for the late filing of the appeal. (Lightner/B. Becker: 5-0)

The tenant's petition alleging substantially decreased housing services and unlawful increases in rent was granted, in part, by the hearing officer. The landlord was found liable to the tenant in the amount of \$850.00 for rent reductions due to inadequate water pressure, threadbare carpet, and loose and buckled linoleum. Additionally, \$453.44 was ordered refunded due to a capital improvement passthrough having been included in base rent. On appeal, the present management company claims that their due process rights were violated by their not having received notice of the hearing; that they were not notified that the tenant required repairs to her apartment; and that the present owner should not be held liable for a period of prior ownership.

MSC: To accept the appeal and remand the case to the same hearing officer for a new hearing. (Lightner/Nash: 5-0)

#### VIII. Communications

In addition to correspondence regarding cases on the calendar, the Commissioners received the Board decision in the case concerning 1063 Market Street (N001-67A), which was approved by the Board and signed by Vice-President Marshall.

IX. Director's Report

Executive Director Grubb informed the Commissioners that the "Sunshine Ordinance" will take effect on December 16, 1993. The effects of this legislation on the operation of the Rent Board will be minimal.

X. Old Business

- A. 3207 Mission St. #9                      0001-09A & 0001-09R  
(heard 9/21/93)

The tenants' petition alleging decreased housing services, the landlord's failure to repair and unlawful rent increases was granted, in part, by the hearing officer. The landlord was found liable to the tenants in the amount of \$440.00 due to various habitability problems in the unit and \$3,829.66 due to rent overpayments. The landlord's appeal was accepted on the issue of the rent overpayments only; the tenants' appeal was accepted on the issue of repair of the light fixture only.

At the Board hearing on the tenants' and landlord's appeals, held on September 21, 1993, testimony focused on the circumstances surrounding the issuance by the landlord of a banked rent increase in excess of limitations; and the issue of repair of the light fixture. The tenants' appeal regarding the light fixture was denied, as the problem had been remedied, but action on the landlord's appeal was deferred pending an opinion from the City Attorney regarding the Board's ability to waive the null and void provisions of the Ordinance.

After discussion with Deputy City Attorney Ilene Dick, the Board passed the following motion:

- MSC:        To deny the landlord's appeal.  
              (Coffino/B. Becker: 5-0)

The Commissioners also discussed correspondence from the landlord to the tenants that indicated that the landlord did not believe she was bound by the hearing officer's decision in this matter. Staff will send a strongly-worded, cautionary letter to the landlord.

B. Attorney's Fees under Ordinance Section 37.9(f)

The Commissioners continued their discussion of the amicus brief that the Board is considering filing in the case of Schneider v. Dervin (Superior Court No. 908127), currently pending before the First District Court of Appeal. The "probable cause" standard for the awarding of attorney's fees that was first suggested appears

to be inapplicable under these circumstances. Therefore, it was the consensus of the Commissioners to attempt to strike a balance between frivolousness and reciprocity by suggesting that a successful defendant in a wrongful eviction lawsuit would be entitled to attorney's fees unless the tenant's case was "well grounded in facts and law".

XI. Executive Session

At 9:30 p.m., the Commissioners went into Executive Session pursuant to Government Code Section 54956.9(b)(1) to discuss matters where significant exposure to litigation exists and returned on the record at 9:40 p.m.

XII. Calendar Items

October 12, 1993 - NO MEETING

October 19, 1993

7 appeal considerations

2 eviction reports

6:00 Appeal Hearing: 499 Alabama St. #323 (0001-04A)  
(acpt. 9/7/93)

Executive Session

New Business: Sprinkler Ordinance

October 26, 1993

6 appeal considerations (1 cont. from 9/21/93)

6:00 Public Hearing: Proposed Rules changes

7:00 Appeal Hearing: 1385 Greenwich St. #14  
(N002-10R) (cont. from 10/5/93)

XIII. Adjournment

Vice-President Marshall adjourned the meeting at 9:45 p.m.





NOTICE OF THE REGULAR MEETING OF THE SAN  
FRANCISCO RESIDENTIAL RENT STABILIZATION  
& ARBITRATION BOARD, Tuesday, 5:30 p.m.

October 19, 1993

\*\*\*\*\*

25 Van Ness Avenue, #70, Lower Level

\*\*\*\*\*

AGENDA

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I. Call to Order

II. Roll Call

III. Approval of the Minutes

IV. Remarks from the Public

V. Consideration of Appeals

|                          |                  |
|--------------------------|------------------|
| A. 140 Steiner Street #6 | 0001-11R         |
| B. 1381 Filbert Street   | 0001-19A         |
| C. 2341 Market Street #5 | 0001-21A         |
| D. 3351 18th Street #7   | 0001-23A         |
| E. 1018 Mission Street   | 0001-14R         |
| F. 225 Irving Street #7  | 0001-15R         |
| G. 2201 Laguna Street    | 0001-16R through |
| #207, 601 and 209        | 0001-18R         |

VI. Communications

VII. Director's Report

VIII. Consideration of Allegations of Wrongful Evictions

|                             |          |
|-----------------------------|----------|
| A. 182 Albion St.           | N003-13E |
| B. 340 So. Van Ness Ave. #1 | N002-72E |

IX. Old Business

IV. Remarks from the Public (cont.)

X. New Business

Sprinkler Ordinance

XI. Appeal Hearing

6:00 499 Alabama Street #323 0001-04A (acpt. 9/7/93)

XII. Executive Session

Exposure to Litigation - Govt. Code Section 54956.9(b)(1)

XIII. Calendar Items

XIV. Adjournment

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JILL SCHLICHTMANN  
PRESIDENT

POLLY MARSHALL  
VICE-PRESIDENT

MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO  
RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD

Tuesday, October 19, 1993 at 5:30 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level

\*\*\*\*\*

FRANK M. JORDAN  
MAYOR

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

I. Call to Order

Vice-President Marshall called the meeting to order at 5:35 p.m.

BARRIE BECKER  
LARRY B. BECKER  
MICHAEL COFFINO  
DAVID G. GRUBER  
MAMIE HOW  
MERRIE T. LIGHTNER  
KATHERINE NASH  
CATHERINE STEANE

II. Roll Call

|                            |   |
|----------------------------|---|
| Commissioners Present:     | B. Becker; L. Becker;<br>Gruber; How; Lightner;<br>Marshall; Nash;<br>Schlichtmann; Steane. |
| Commissioners not Present: | Coffino.  |
| Staff Present:             | Grubb; Wolf.  |

Commissioner Marshall left the meeting at 7:10 p.m.;  
Commissioner Schlichtmann went off the record at 8:00 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of October 5, 1993.  
(Marshall/Lightner: 5-0)

IV. Remarks from the Public

Al Goodwin inquired as to the status of the Board's deliberations regarding the issue of hearsay evidence in Rent Board hearings. Mr. Yokomichi of 1018 Mission Street (0001-14R) asked whether the Board had listened to the tape of his hearing.

V. Consideration of Appeals

A. 140 Steiner St. #6 0001-11R

The tenant petitioned for a rent reduction due to the loss of the ability to park his motorcycle on the sidewalk in front of the building, as he had been doing for the majority of his 18-year tenancy. The hearing officer denied the petition because she found that sidewalk parking had never been promised as part of the package of housing services provided by the landlord. The tenant appeals, maintaining that parking is a listed housing service as contemplated under the Ordinance;

that the overhang that the tenant used to park under had been removed by the owners for purely "aesthetic" reasons; and that the tenant had been forced to rent alternative parking at a cost of \$35.00 per month.

MSC: To excuse Commissioner L. Becker from consideration of this appeal.  
(B. Becker/Marshall: 5-0)

MSC: To deny the appeal.  
(Lightner/Gruber: 4-1; Marshall dissenting)

B. 1381 Filbert St. 0001-19A

The tenant's petition contesting the validity of a rent increase from \$602.43 to \$1,000.00 due to the last "original" tenant having vacated the premises was granted by the hearing officer, and the landlord was found liable to the tenant for rent overpayments in the amount of \$2,782.99. The landlord appeals, alleging that: the master tenant and tenant engaged in a pattern of fraud and deceit to conceal the tenant's having sublet the premises; the hearing officer's decision was based on unreliable hearsay evidence; and that the hearing officer exhibited bias against the landlord, in that she solicited additional evidence from the tenant but not from the landlord.

MSC: To accept the landlord's appeal and schedule a Board hearing. (Lightner/Gruber: 3-2;  
B. Becker, Marshall dissenting)

#### VI. Appeal Hearing

499 Alabama Street #323 0001-04A

The tenant's petition alleging unlawful rent increases and a substantial decrease in housing services was granted by the hearing officer, and the landlord was found liable to the tenant in the amount of \$13,545.00 for rent overpayments dating back to September, 1982 and \$1,550.00 due to the lack of landlord-provided heat, commencing as of January 1991. The landlord, the Project Artaud Corporation, appeals the decision, alleging that: the amounts ordered refunded would impose a financial hardship and threaten the viability of this artist live-work project; there should have been no reasonable expectation that heat would be provided, as the spaces are furnished "raw", with improvements to be made by the residents; and that there is no logic to the hearing officer's choice of dates for commencement of rent reductions and refund of rent overpayments.

At their August 24, 1993 meeting, the Commissioners agreed to continue consideration of the landlord's appeal for two weeks in order to consult with the City Attorney regarding the issue of jurisdiction in light of recently enacted legislation which now exempts from the Ordinance public benefit non-profit corporations such as Project Artaud. At their meeting of September 7, 1993, the Board voted to accept the landlord's appeal for Board hearing on the issues of: the landlord's claim of exemption from the Ordinance, to be briefed by the parties prior to the hearing; landlord financial hardship; and the date of commencement of the rent reduction for decreased housing services (heat).

The tenant appeared at the Board hearing accompanied by a witness and her attorney. The landlord was represented by the Executive Director of the corporation, also acting as counsel. Testimony focused on the circumstances surrounding the tenant's attempts to procure heat in her unit. It was established that, in August of 1993, Project Artaud amended its Bylaws such that the project is now exempt from Rent Board jurisdiction. After discussion, it was the consensus of the Commissioners to continue this matter for one week in order for the landlord to provide additional financial information and to obtain further advice from the City Attorney regarding the jurisdictional issue.

V. Consideration of Appeals (cont.)

C. 2341 Market St. #5

0001-21A

The landlords' petition for certification of capital improvement costs was granted, in part, by the hearing officer. Costs for interior painting of one unit in the building and replacement of a refrigerator were disallowed as being in the nature of ordinary repair and maintenance. The landlord argues against these long-standing policy interpretations, maintaining that the Rent Board is standing in the way of reasonable agreements between landlords and tenants by not allowing such expenses to be amortized as capital improvement costs.

MSF: To accept the landlord's appeal and schedule a Board hearing on the issue of whether interior painting of a unit should, under certain circumstances, be considered a capital improvement; and, if so, whether a capital improvement passthrough is warranted under the facts of this case. (Lightner/Gruber: 2-2; B. Becker, Steane dissenting)

The motion having failed, it was the consensus of the Commissioners to continue consideration of this matter to the next meeting.

D. 3351 18th St. #7

0001-23A

The tenant's petition alleging decreased housing services was granted, in part, by the hearing officer. The landlord was found liable to the tenant in the amount of \$1,430.50 due to various habitability problems in the unit. The landlord failed to appear at the hearing. On appeal, he asserts that his property manager, to whom the notice was delivered, was out of the country during the period of time when the notice was served and the hearing was held.

MSC: To deny the appeal. (Steane/B. Becker: 4-0)

E. 1018 Mission St.

0001-14R

The tenant resides in a single room occupancy hotel. At the time his tenancy commenced, weekly maid service was provided to residents. The tenant indicated to the hotel's management that he did not wish maid service, only delivery of clean linens on a weekly basis. In 1989, management stopped delivering linens to tenants' rooms, but continued to provide this service to this tenant. The linen delivery is now at sporadic times, and the tenant alleges that this is a major inconvenience to him. He also now wishes to be compensated for the lack of daily maid service, something which is only provided to tenants who pay rent on a daily basis. The hearing officer denied the petition because the tenant failed to prove any substantial decrease. The tenant appeals, maintaining that the hearing officer is incompetent and biased against him.

MSC: To deny the appeal. (Lightner/Gruber: 4-0)

F. 225 Irving St. #7

0001-15R

The landlord's petition for certification of capital improvement costs was granted by the hearing officer. One tenant appeals on the basis of financial hardship, as she was recently laid off from her job.

MSF: To accept the appeal and schedule a Board hearing on the issue of financial hardship to the tenant. (Steane/B. Becker: 2-2; Gruber, Lightner dissenting)

The motion having failed, it was the consensus of the Commissioners to continue consideration of this case to the next meeting.

G. 2201 Laguna Street  
#207, 601 & 209

0001-16R through  
0001-18R

The landlords' petition for rent increases based on increased operating expenses was granted by the hearing officer. Three tenants appeal, the tenants in units 207 and 601 on the basis of financial hardship; the tenant in unit #209 appeals on the issues of financial hardship and the landlords' alleged failure to make requested repairs.

The parties requested that this matter be continued to the next meeting because they are currently engaged in settlement negotiations.

VII. Communications

The Commissioners received a copy of a letter from Executive Director Joe Grubb regarding the case at 3207 Mission St. #9 (0001-09A) and a letter to the tenants from the landlord's counsel, Clifford Fried.

VIII. Director's Report

Executive Director Grubb provided the Commissioners with a report on the various Community Outreach activities that staff is engaged in.

IX. Consideration of Allegations of Wrongful Evictions

A. 182 Albion St.

N003-13E

The tenant had lived in the subject unit without a written lease since 1980, and has had several roommates since that time. The new owner demanded that the tenant sign a lease which prohibited subletting, which she refused to do, asserting that this constituted a material change in the terms of her tenancy. The landlord issued a 3-Day notice on the grounds that the tenant was illegally subletting her unit. The tenant alleges that the landlord is acting in bad faith, using this basis for an eviction attempt after an earlier attempt based on owner-occupancy failed.

EVALUATION: The hearing officer found that the landlord's argument that the tenant does not have a right to have roommates is without merit; additionally, the landlord's eviction notice is procedurally defective.



RECOMMENDATION: The Eviction Unit Supervisor and the hearing officer recommend that the Board issue a strongly-worded cautionary letter to the landlord, advising them of applicable law and warning them about pursuing eviction of this tenant. In the event of any further attempt to evict this tenant because she has roommates, this case will be referred to the Commissioners for possible referral to the District Attorney.

MSC: To accept the staff recommendation in this case. (B. Becker/Steane: 4-0)

B. 340 So. Van Ness Ave. #1 N002-72E

The tenant has resided in the a 2-room unit in the subject building since 1982. This is the smallest unit in the building. The relationship between the tenant and the landlord is extremely strained. There have been prior attempts to evict the tenant on the bases of nuisance and removal of the building from the rental market. The landlord is now attempting to evict the tenant on the basis of owner-occupancy.

EVALUATION: The landlord has not complied with the Ordinance or Rules and Regulations in any of the various eviction attempts. Since the landlord had accepted rent from the tenant after the notice period had run on the last termination notice, there was no outstanding eviction notice at the time of the hearing.

RECOMMENDATION: The Eviction Unit Supervisor concurs with the hearing officer's recommendation that the Commissioners send a strongly-worded letter to the landlord, cautioning her against proceeding with another attempt to evict this tenant.

MSC: To accept the staff recommendation in this case. (B. Becker/Steane: 4-0)

#### IV. Remarks from the Public (cont.)

Al Goodwin spoke to the Commissioners about the "realities" of filing an increased operating expense petition; he also commented that the 60-day notice period contained in Rules Section 6.14 is too restrictive.

#### X. New Business

The "Sprinkler Ordinance" being introduced by Supervisor Hsieh has been taken off the Board of Supervisors' calendar for one month.



XI. Executive Session

At 9:30 p.m., the Commissioners went into Executive Session pursuant to Government Code Section 54956.9(b)(1) to discuss matters where significant exposure to litigation exists and returned on the record at 10:15 p.m.

XII. Calendar Items

October 26, 1993

9 appeal considerations (3 cont. from 10/19/93;  
/ cont. from 9/21/93)

- 6:00 Appeal Hearing: 499 Alabama St. #323  
(0001-04A) (cont. from 10/19/93)  
6:30 Public Hearing: Proposed Rules changes  
7:00 Appeal Hearing: 1385 Greenwich St. #14  
(N002-10R) (cont. from 10/5/93)

Executive Session

November 2, 1993 - NO MEETING

November 9, 1993

6 appeal considerations

- 6:00 Appeal Hearing: 1381 Filbert St.  
(0001-19A) (acpt. 10/19/93)

XIII. Adjournment

Commissioner How adjourned the meeting at 10:20 p.m.



City and County of San Francisco

Residential Rent Stabilization  
and Arbitration Board



JILL SCHLICHTMANN  
PRESIDENT

POLLY MARSHALL  
VICE-PRESIDENT

NOTICE OF THE REGULAR MEETING OF THE SAN  
FRANCISCO RESIDENTIAL RENT STABILIZATION  
& ARBITRATION BOARD, Tuesday, 5:30 p.m.  
October 26, 1993

\*\*\*\*\*  
25 Van Ness Avenue, #70, Lower Level  
\*\*\*\*\*

AGENDA

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FRANK M. JORDAN  
MAYOR

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

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I. Call to Order

BARRIE BECKER

LARRY B. BECKER

MICHAEL COFFINO

DAVID G. GRUBER

MAMIE HOW

MERRIE T. LIGHTNER

KATHERINE NASH

CATHERINE STEANE

II. Roll Call

III. Executive Session

5:30 Exposure to Litigation - Govt. Code Section 54956.9(b)(1)

IV. Approval of the Minutes

V. Public Hearing

6:30 Proposed Changes to the Rules and Regulations regarding hearsay  
evidence. (Rules and Regulations Section 11.17(c))

VI. Consideration of Appeals

|    |                                    |  |
|----|------------------------------------|--|
| A. | 493 Haight St. #25                 | 0001-10R (cont. from 9/21/93)                      |
| B. | 2341 Market St. #5                 | 0001-21A (cont. from 10/19/93)                     |
| C. | 225 Irving St. #7                  | 0001-15R (cont. from 10/19/93)                     |
| D. | 2201 Laguna St. #207,<br>601 & 209 | 0001-16R through 0001-18R<br>(cont. from 10/19/93) |
| E. | 747 Leavenworth St. #6             | 0001-25A   |
| F. | 882 Green St.                      | 0001-24A   |
| G. | 970 Chestnut St. #2                | 0001-26A   |
| H. | 4 Appleton Ave.                    | 0001-27A   |
| I. | 3718 24th St.                      | 0001-28A   |

VII. Communications

VIII. Director's Report

IX. Old Business

X. Remarks from the Public

XI. New Business

XII. Appeal Hearings

|      |                        |                                |
|------|------------------------|--------------------------------|
| 6:00 | 499 Alabama St. #323   | 0001-04A (cont. from 10/19/93) |
| 7:00 | 1385 Greenwich St. #14 | N002-10R (cont. from 10/5/93)  |

XIII. Calendar Items

XIV. Adjournment

## *ACCESSIBLE MEETING POLICY*

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JILL SCHLICHTMANN  
PRESIDENT

POLLY MARSHALL  
VICE-PRESIDENT

FRANK M. JORDAN  
MAYOR

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO  
RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD  
Tuesday, October 26, 1993 at 5:30 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level  
\*\*\*\*\*

I. Call to Order

President Schlichtmann called the meeting to order at 5:35 p.m.

II. Roll Call

BARRIE BECKER  
LARRY B. BECKER  
MICHAEL COFFINO  
DAVID G. GRUBER  
MAMIE HOW  
MERRIE T. LIGHTNER  
KATHERINE NASH  
CATHERINE STEANE

Commissioners Present: B. Becker; L. Becker; How;  
Lightner; Nash; Schlichtmann;  
Steane.  
Commissioners not Present: Marshall.  
Staff Present: Grubb; Wolf.

Commissioners Coffino and Gruber appeared on the record at 5:38 p.m.; Commissioner Schlichtmann left the meeting at 8:00 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of October 19, 1993 with the correction that President Schlichtmann, and not Vice-President Marshall, called the meeting to order. (Steane/B. Becker: 5-0)

IV. Executive Session

At 5:36 p.m., the Commissioners went into Executive Session pursuant to Government Code Section 54956.9(b)(1) to discuss matters where significant exposure to litigation exists and returned on the record at 6:05 p.m. While in Executive Session, the Commissioners passed the following motion:

MSC: That Board policy shall continue to be that the law that was in effect at the time of filing of a landlord or tenant petition will be the law which will be applied to the case by the hearing officers or the Board. (Steane/B. Becker: 5-0)

V. Appeal Hearings

A. 499 Alabama Street #323 0001-04A (cont. from 10/19/93)

The tenant's petition alleging unlawful rent increases and a substantial decrease in housing services was granted by the hearing officer, and the landlord was found liable to the tenant in the



amount of \$13,545.00 for rent overpayments dating back to September, 1982 and \$1,550.00 due to the lack of landlord-provided heat, commencing as of January 1991. The landlord, the Project Artaud Corporation, appealed the decision, alleging that: the amounts ordered refunded would impose a financial hardship and threaten the viability of this artist live-work project; there should have been no reasonable expectation that heat would be provided, as the spaces are furnished "raw", with improvements to be made by the residents; and that there is no logic to the hearing officer's choice of dates for commencement of rent reductions and refund of rent overpayments.

At their August 24, 1993 meeting, the Commissioners agreed to continue consideration of the landlord's appeal for two weeks in order to consult with the City Attorney regarding the issue of jurisdiction in light of recently enacted legislation which now exempts from the Ordinance public benefit non-profit corporations such as Project Artaud. At their meeting of September 7, 1993, the Board voted to accept the landlord's appeal for Board hearing on the issues of: the landlord's claim of exemption from the Ordinance; landlord financial hardship; and the date of commencement of the rent reduction for decreased housing services (heat).

The tenant appeared at the Board hearing on October 19, 1993 accompanied by a witness and her attorney. The landlord was represented by the Executive Director of the corporation, also acting as counsel. Testimony focused on the circumstances surrounding the tenant's attempts to procure heat in her unit. It was established that, in August of 1993, Project Artaud amended its Bylaws such that the project is now exempt from Rent Board jurisdiction. After discussion, the Commissioners continued this matter for one week in order for the landlord to provide additional financial information and to obtain further advice from the City Attorney regarding the jurisdictional issue.

At the continued hearing on October 26, 1993, the same parties were in appearance. At the commencement of the hearing, President Schlichtmann informed the parties that, after consulting with the City Attorney, the Commissioners had determined that the Board had jurisdiction over this matter because the tenant had filed her petition prior to the effective date of the Ordinance amendment exempting public benefit non-profit corporations such as Project Artaud. Testimony focused on the financial information provided by the landlord and the circumstances surrounding the tenant's delay in coming forth with her claims. After discussion, the Board passed the following motions:

- MSC: To find that August, 1989 is the commencement date for the rent reduction due to the lack of a heating source in the unit. (Steane/Coffino: 3-2; Gruber, Lightner dissenting)

MSC: In the interest of justice, and because the equitable defense of laches is found to apply, no refunds due to rent overpayments are warranted in this case. (Lightner/Gruber: 3-2; B. Becker, Steane dissenting)

VI. Public Hearing

The following individuals addressed the Board between 8:00 and 8:45 p.m. on the issue of hearsay evidence in Rent Board hearings:

1. Attorney Michael Hall raised the issue of the likelihood of uncooperative witnesses, especially as the Board has no subpoena power. He suggested that in the case of a hearsay objection, but otherwise credible evidence, shifting the burden to the party raising the objection.

2. Al Goodwin stated that he found the proposed language to be "shameful", as he believes it will "red flag" the issue and invite more hearsay objections. He believes the Board has a burden to now change the Ordinance and suggested automatic, fixed amounts for capital improvement items.

3. Attorney Joe Bravo maintained that the proposed language fails to solve the problem, and ensuring a fair hearing process would be an improvement. He alleged that hearing officers consider issues not raised in the petition, and thought that lists of witnesses and evidence should be provided prior to the hearing.

4. Andy Braden suggested that using the Rent Board Estimator's Report might solve some of the problems of hearsay. He indicated that having the Estimator at the hearing could also help in eliminating the problem of hearsay.

VII. Consideration of Appeals

A. 2341 Market St. #5

0001-21A (cont. from 10/19/93)

The landlords' petition for certification of capital improvement costs was granted, in part, by the hearing officer. Costs for interior painting of one unit in the building and replacement of a refrigerator were disallowed as being in the nature of ordinary repair and maintenance. The landlord argues against these long-standing policy interpretations, maintaining that the Rent Board is standing in the way of reasonable agreements between landlords and tenants by not allowing such expenses to be amortized as capital improvement costs.

MSC: To accept the landlord's appeal and schedule a Board hearing on the issue of whether interior painting of a unit should, under certain circumstances, be



considered a capital improvement; and, if so, whether a capital improvement passthrough is warranted under the facts of this case.  
(Lightner/Coffino: 3-2; B. Becker, Steane dissenting)

B. 747 Leavenworth St. #6 0001-25A

The tenant's petition alleging decreased housing services was granted, and the landlord was found liable to the tenant in the amount of \$195.00 due to a leaking roof and resulting ceiling damage. Additionally, as the parties have been before the Board on several numerous occasions regarding these same issues, the hearing officer found that the landlord will be liable in the future for a \$50.00 monthly rent reduction for each month during the rainy season that the roof goes unrepaired. On appeal, the landlord alleges that he has always promptly responded to the tenant's complaints, that the roof problem has been remedied, and that the hearing officer erred by granting a prospective rent reduction without knowing if it will rain during those months.

MSC: To deny the appeal except for a technical correction regarding the dates of the prospective rent reductions. (Steane/Gruber: 5-0)

V. Appeal Hearings (cont.)

B. 1385 Greenwich St. #14 N002-10R (cont. from 10/5/93)

The landlord's petition for certification of capital improvement costs was granted, in part, by the hearing officer. The tenant in unit #14 appealed the decision on the basis of financial hardship. At their meeting of August 3, 1993, the Commissioners voted to accept the tenant's appeal for a Board hearing on the issue of financial hardship.

At the September 7 1993 Board hearing, the Commissioners examined evidence and heard testimony regarding the tenant's income and resources, and passed a motion finding that imposition of the capital improvement passthrough would be a financial hardship to the tenant. No decision was made, however, concerning what action the Board would take as a result of the finding of financial hardship because the landlord raised a claim of financial hardship as well. The Board therefore continued the matter to the October 5, 1993 meeting in order to consider the landlord's claim of financial hardship.

At the October 5th Board meeting, testimony and evidence were proffered regarding the landlord's financial circumstances. In order for the tenant's representative to be able to thoroughly examine the documentation provided by the landlord's attorney, the case was further continued to the October 26, 1993 Board meeting.

0267M

Prior to the commencement of the hearing, the landlord's and tenant's representatives informed the Commissioners that they had reached a settlement, and the tenant would therefore withdraw her appeal.

VII. Consideration of Appeals (cont.)

C. 3718 24th St. 0001-28A

The tenant's petition alleging decreased housing services was granted, in part, by the hearing officer and the landlord was found liable to the tenant in the amount of \$400.00 due to the lack of a proper heating device in the tenant's bedroom. On appeal, the landlord alleges that: the tenant refused to allow the installation of a new heater in the living room of her apartment; the Bureau of Building Inspection did not cite the landlord for lack of heat in the bedroom; and the tenant failed to show a decrease in service, because there was no reduction in the amount of heat supplied to the bedroom.

MSC: To deny the appeal. (Steane/B. Becker: 3-2;  
Gruber, Lightner dissenting)

D. 225 Irving St. #7 0001-15R (cont. from 10/19/93)

The landlord's petition for certification of capital improvement costs was granted by the hearing officer. One tenant appeals on the basis of financial hardship, as she was recently laid off from her job.

MSC: To deny the appeal. (Coffino/Gruber: 3-2;  
B. Becker, Steane dissenting)

E. 2201 Laguna St. #207, 601 & 209 0001-16 R through  
0001-18R (cont. from 10/19/93)

The landlords' petition for rent increases based on increased operating expenses was granted by the hearing officer. Three tenants appealed, the tenants in units 207 and 601 on the basis of financial hardship; the tenant in unit #209 on the issues of financial hardship and the landlords' alleged failure to make requested repairs. At the meeting on October 19, 1993, the parties requested a continuance because they were engaged in settlement negotiations. Subsequent to that time, the tenant in unit #601 withdrew her appeal, and the tenant in unit #207 indicated that she would probably do likewise. The tenant in unit #209 requested a further continuance in order to obtain counsel, which was granted by the Commissioners.

F. 882 Green St.

0001-24A

The tenant's petition alleging decreased housing services was granted, in part, by the hearing officer and the landlord was found liable to the tenant in the amount of \$1,632.00 due to water damage from a leaking roof, incomplete painting of the kitchen, cracks in the ceiling and damaged hardwood floors. On appeal, the landlord asserts that: the painting was unfinished because the tenant moved in two days prior to the commencement of his lease; the tenant assured the landlord that he was satisfied with the work done in his unit; the tenant failed to provide access so that repairs could be effectuated; and there was actually an increase in services because the tenant's girlfriend also lived in the unit, in violation of the lease agreement.

After discussion, this case was continued to the next meeting in order to receive a response from the hearing officer.

G. 970 Chesnut St. #2

0001-26A

The tenant's petition alleging substantially decreased housing services and unlawful increases in rent was granted, in part, by the hearing officer. The landlord was found liable to the tenant in the amount of \$1,942.23 due to capital improvement passthroughs having been included in base rent for purposes of calculating annual increases; and \$1,342.50 for various habitability problems in the unit. The landlord appeals, asserting that: the newly-enacted Statute of Limitations legislation should apply and the rent refunds should go back no more than three years; the tenant proved the landlord's failure to repair, and not a substantial decrease in housing services; and long-term notice sufficient to justify going back for more than a one-year period on the decreased service rent reductions was not shown.

MSC: To accept the landlord's appeal and remand the case to the same hearing officer on the issue of whether certain problems found to be substantial decreases in housing services are actually failures to repair; to deny the appeal as to all other issues.  
(Lightner/Coffino: 5-0)

H. 4 Appleton Ave.

0001-27A

The tenant's petition alleging decreased housing services was granted by the hearing officer and the landlord was found liable to the tenant in the amount of \$1,025.00 due to severe habitability problems in the unit. The landlord appeals, alleging that she had produced a work order at the hearing attesting to work done on the roof; that rent owed by the tenant should be offset against the sums ordered by the hearing officer; and that she hasn't the funds to repair the building and couldn't apply for a loan until she acquired title to the property on June 24, 1993.

MSC: To deny the appeal; however, any sums owed by the tenant to the landlord shall be offset against the amount granted to the tenant by the hearing officer. (B. Becker/Steane: 5-0)

VIII. Communications

In addition to correspondence regarding cases on the calendar, the Commissioners received a copy of the recently published Court of Appeal decision in the case of Kavanau v. Santa Monica Rent Control Board (93 C.D.O.S. 7892).

IX. Director's Report

The Executive Director informed the Board that the clerical amendment to the recently enacted Statutes of Limitation legislation was passed out of committee by a 3-0 vote, and will go before the full Board of Supervisors next week. He also told them that Deputy Director Wolf attended a training on the "Sunshine Ordinance" and conflicts of interest on the morning of October 23rd, as well as doing a presentation at the Tenants' Union Open House that afternoon.

X. New Business

A draft proposal regarding hearsay evidence in Rent Board hearings was distributed by Commissioner Steane.

XI. Calendar Items

November 2, 1993 - NO MEETING

November 9, 1993

10 appeal considerations (2 cont. from 10/26/93)

1 eviction recommendation

6:00 Appeal Hearing: 1381 Filbert St. (0001-19A) (acpt. 10/19/93)

Old Business:

A. Amicus Brief (Schneider v. Dervin)

B. Channing Amendments

C. Hearsay Evidence

November 16, 1993 - NO MEETING

XII. Adjournment

Commissioner How adjourned the meeting at 10:20 p.m.



City and County of San Francisco

Residential Rent Stabilization  
and Arbitration Board



NOTICE OF THE REGULAR MEETING OF THE SAN  
FRANCISCO RESIDENTIAL RENT STABILIZATION  
& ARBITRATION BOARD, Tuesday, 5:30 p.m.  
November 9, 1993

FRANK M. JORDAN  
MAYOR

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

JILL SCHLICHTMANN  
PRESIDENT

POLLY MARSHALL  
VICE-PRESIDENT

\*\*\*\*\*  
25 Van Ness Avenue, #70, Lower Level  
\*\*\*\*\*

AGENDA

\*\*\*\*\*

I. Call to Order

DOCUMENTS DEPT.

II. Roll Call

NOV 20 2000

III. Approval of the Minutes

SAN FRANCISCO  
PUBLIC LIBRARY

IV. Remarks from the Public

V. Consideration of Appeals

BARRIE BECKER  
LARRY B. BECKER  
MICHAEL COFFINO  
DAVID G. GRUBER  
MAMIE HOW  
MERRIE T. LIGHTNER  
KATHERINE NASH  
CATHERINE STEANE

|    |                            |  |
|----|----------------------------|--|
| A. | 2201 Laguna St. #207 & 209 | 0001-16R & 0001-18R<br>(cont. from 10/26/93) |
| B. | 882 Green Street           | 0001-24A<br>(cont. from 10/26/93)            |
| C. | 3225 Laguna St. #6         | 0001-22A                                     |
| D. | 1359-8th Ave.              | 0001-19R                                     |
| E. | 1271-26th Ave.             | 0001-20R                                     |
| F. | 88 Onondaga St. #2         | 0001-29A                                     |
| G. | 159 Belvedere St.          | 0001-21R                                     |
| H. | 1240 Bush St.              | 0001-30A                                     |
| I. | 1165 Church St. #1         | 0001-22R                                     |
| J. | 2341 Market St. #5         | 0001-24R                                     |

VI. Communications

VII. Director's Report

VIII. Consideration of Allegations of Wrongful Evictions  
3679 - 18th Street N003-29E

IX. Old Business

A. Attorneys' Fees under Ordinance Section 37.9(f)  
(Schneider v. Dervin)  
B. Channing Amendments  
C. Hearsay Evidence

IV. Remarks from the Public (cont.)

X. New Business

XI. Appeal Hearing  
6:00 1381 Filbert St. 0001-19A (acpt. 10/19/93)

XII. Calendar Items

IX. Adjournment



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MAMIE HOW  
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KATHERINE NASH  
CATHERINE STEANE

MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO  
RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD

Tuesday, November 9, 1993 at 5:30 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level  
\*\*\*\*\*

FRANK M. JORDAN  
MAYOR

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

I. Call to Order

Vice-President Marshall called the meeting to order at 5:40 p.m.

II. Roll Call

|                            |  |
|----------------------------|--|
| Commissioners Present:     | B. Becker; L. Becker;<br>Gruber; How; Lightner;<br>Marshall; Nash. |
| Commissioners not Present: | Coffino; Schlichtmann.   |
| Staff Present:             | Grubb; Wolf.   |

Commissioner Steane appeared on the record at 7:10 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of October 26, 1993.  
(B. Becker/Gruber: 4-0)

IV. Consideration of Appeals

|                                    |  |
|------------------------------------|--|
| A. 2201 Laguna St. #207<br>and 209 | 0001-16R & 0001-18R<br>(cont. from 10/26/93) |
|------------------------------------|--|

The landlords' petition for rent increases based on increased operating expenses was granted by the hearing officer. Three tenants appealed, the tenants in units 207 and 601 on the basis of financial hardship; the tenant in unit #209 on the issue of the landlords' alleged failure to make requested repairs. At the meeting on October 19, 1993, the parties requested a continuance because they were engaged in settlement negotiations. Subsequent to that time, the tenant in unit #601 withdrew her appeal, and the tenant in unit #207 indicated that she and the landlord were still working out the terms of their settlement. The tenant in unit #209 requested a further continuance in order to obtain counsel, which was granted by the Commissioners.

At the November 9th meeting, the Deputy Director informed the Commissioners that she had been working with the parties on settling the appeal of the tenant in unit #207. The Commissioners agreed to continue consideration of that tenant's appeal for two



additional weeks so that the settlement agreement could be forwarded to them for adoption. As to the appeal of the tenant in unit #209, the Board passed the following motion:

MSC: To accept the tenant's appeal and remand the case to the same hearing officer to see if the terms agreed to by the parties at the hearing have been complied with. (Lightner/B. Becker: 4-0)

B. 882 Green St. 0001-24A  
(cont. from 10/26/93)

The tenant's petition alleging decreased housing services was granted, in part, by the hearing officer and the landlord was found liable to the tenant in the amount of \$1,632.00 due to water damage from a leaking roof, incomplete painting of the kitchen, cracks in the ceiling and damaged hardwood floors. On appeal, the landlord asserts that: the painting was unfinished because the tenant moved in two days prior to the commencement of his lease; the tenant assured the landlord that he was satisfied with the work done in his unit; the tenant failed to provide access so that repairs could be effectuated; and there was actually an increase in services because the tenant's girlfriend also lived in the unit, in violation of the lease agreement. Consideration of this appeal was continued from the last meeting in order to obtain a response from the hearing officer.

MSC: To accept the landlord's appeal and remand the case to the same hearing officer on the record for technical corrections as to three issues: the dates for the rent reduction for failure to paint the kitchen walls and ceiling; the dates for the rent reduction for repair of the floor; and elimination of the rent reduction for the roof leak. (B. Becker/Lightner: 4-0)

C. 3225 Laguna St. #6 0001-22A

The tenant's petition alleging that she sublet an apartment from a tenant who charged her more rent than she was paying the landlord, in violation of Ordinance Section 37.3(c), was granted by the hearing officer. The master tenant, who now resides in New York, was found liable to the subtenant in the amount of \$1,755.00 for rent overpayments. The master tenant appeals, declaring that she never received the Notice of Hearing, and would have sent someone to represent her at the hearing had she received the notice. She asserts that the amount of rent charged was fair, because the apartment was fully furnished, and that the hearing officer's calculations of rent overpayments are incorrect. She also requests an extension of her appeal deadline, in order to consult with an attorney.

0269M

MSC: To deny the appeal. (Lightner/Gruber: 4-0)

V. Appeal Hearing

1381 Filbert St.

0001-19A

The tenant's petition contesting the validity of a rent increase from \$602.43 to \$1,000.00 due to the last "original" tenant having vacated the premises was granted by the hearing officer, and the landlord was found liable to the tenant for rent overpayments in the amount of \$2,782.99. The landlord appealed the decision, alleging that: the master tenant and tenant engaged in a pattern of fraud and deceit to conceal the tenant's having sublet the premises; the hearing officer's decision was based on unreliable hearsay evidence; and the hearing officer exhibited bias against the landlord, in that she solicited additional evidence from the tenant but not from the landlord. At their meeting of October 19, 1993, the Commissioners voted to accept the landlord's appeal for Board hearing.

The landlord appeared at the Board hearing accompanied by his attorney; the tenant appeared and represented herself. Testimony focused on the circumstances surrounding the commencement of the subtenancy and when the landlord actually knew that the subtenant was residing at the premises. After discussion, the following motion was made:

MSF: To overturn the hearing officer's decision and find that, upon Hope Dobrich's having vacated the premises, a new tenancy was established.  
(Gruber/Lightner: 2-2; B. Becker, Marshall dissenting)

The motion having failed, this matter was continued to the next meeting.

IV. Consideration of Appeals (cont.)

D. 1359 - 8th Ave.

0001-19R

The parties in this case have been involved in many prior Rent Board proceedings. In the instant case, on remand from a prior dismissal of the tenants' petition for their failure to appear, the hearing officer granted some of the tenants' decreased services claims. The landlord was found liable to the tenants in the amount of \$590.00 due to a deteriorated shower stall, leaking shower head, and hole in the bathroom ceiling. The tenants appeal the remand decision, requesting additional time to appeal in order to seek legal counsel.

0269M

MSC: To excuse Commissioner L. Becker from  
consideration of this appeal.  
(Lightner/B. Becker: 4-0)

MSC: To deny the appeal. (Lightner/B. Becker: 4-0)

E. 1271 - 26th Ave. 0001-20R

The tenants' petition alleging unlawful increases in rent was denied by the hearing officer. The subject premises was rented by the tenants for use as a "group home" for the care of foster children. The hearing officer found that State law preempts the provisions of the Rent Ordinance because Section 1518 of the California Community Care Facilities Act specifically states that, as long as the unit is used as a licensed community care facility, it is exempted from "controls on rent imposed by any local agency or other local government or entity." On appeal, the tenants assert that: the facts do not support the conclusions of law and the decision; the decision violates petitioners' right to equal protection under the law and the Fair Housing Act; and the cited Health and Safety Code section is unconstitutional. After discussion of the policy considerations involved in this case, it was the consensus of the Commissioners to continue this matter for two weeks in order for staff to read the cases cited in appellants' brief.

F. 88 Onondaga St. #2 0001-29A

The tenant's petition alleging decreased housing services was granted, in part, by the hearing officer and the landlord was found liable to the tenant in the amount of \$110.00 due to a faulty mailbox key, which hindered proper mail delivery. On appeal, the landlord asserts that the hearing officer incorrectly granted the rent reduction for the mailbox key, because the issue was considered by the Municipal Court in conjunction with an unlawful detainer action.

MSC: To deny the appeal. (B. Becker/Marshall: 3-1;  
Gruber dissenting)

G. 159 Belvedere St. 0001-21R

The tenant's petition alleging decreased housing services was granted, in part, by the hearing officer and the landlord was found liable to the tenant in the amount of \$810.00 due to the lack of a functioning heating source in the unit and unhealthy conditions relating to the presence of a pet on the premises. The tenant appeals, alleging that the commencement date for the rent reductions should be earlier, because he established long-term verifiable notice to the landlord of the conditions and the landlord was aware that there was no furnace when he rented the unit to the tenant.

MSC: To deny the appeal. (Lightner/Marshall: 4-0)

H. 1240 Bush St.

0001-30A

The landlords' petition for certification of capital improvement and earthquake-related repair costs was granted, in part, by the hearing officer. The hearing officer did not certify the costs of various new components of the boiler system, finding that these items were in the nature of repair, and not capital improvement. The landlord appeals, pointing out that such items have been certified by hearing officers in past cases. The landlord also maintains that these items should be certified because they were replacements of parts of a complex system, which extends the life of the boiler system, and not merely repairs to old units.

MSC: To accept the landlord's appeal and remand the case to the same hearing officer to determine whether item numbers 10 and 14 in the appeal ("replaced new main gas valve, replaced pilot assembly, installed new electronic ignition, replaced hot water tempering valve" and "replaced boiler room hot water line and pressure regulator") are properly considered capital improvements because they replaced and substantially upgraded something that hadn't existed before, as opposed to merely improving an existing system. (Lightner/Gruber: 4-0)

I. 1165 Church St. #1

0001-22R

The landlord's petition for certification of capital improvement costs for seven units was granted by the hearing officer. Additionally, charges for capital improvement passthroughs that had been fully amortized and should have been discontinued were refunded to the tenants in two units. A tenant in another unit in the building appeals, asserting that the capital improvement passthrough should be discontinued and overcharges refunded to her as well.

MSC: To accept the appeal and remand the case to the same hearing officer on the issue of the rent history for the tenant in unit #1.  
(Gruber/Lightner: 4-0)

J. 2341 Market St. #5

0001-24R

The tenant's appeal was submitted 28 days after the appeal deadline because the tenant alleges that he has a limited education, and failed to realize that there was a deadline for the filing of an appeal.

0269M



MSC: To find good cause for the late filing of the appeal. (B. Becker/Gruber: 4-0)

The landlords' petition for certification of capital improvement costs for four units was granted, in part, by the hearing officer. One tenant appeals the decision on the basis of financial hardship, because his gross weekly pay is in the amount of only \$308.00.

MSC: To deny the appeal. (Lightner/Gruber: 4-0)

VI. Communications

In addition to correspondence regarding cases on the calendar, the Commissioners received the following:

A. The monthly workload statistics for the month of September.

B. The appeal decision in the case concerning 3207 Mission St. #9 (0001-09A & 0001-09R), which was approved by the Board and signed by Vice-President Marshall.

VII. Director's Report

The Executive Director informed the Commissioners as follows:

A. The plethora of legal questions that has arisen recently has somewhat strained the Board's budget for the services of the City Attorney.

B. Deputy Director Wolf was a guest lecturer at Wally Oman's paralegal studies class last week.

C. Deputy Director Wolf informed that Board that the agency prevailed in the Writ involving 1100 Gough Street (Carillon Towers). The issue presented was whether the Board exceeded its rule-making authority by amending Section 10.10 of the Rules and Regulations to include a cause of action for tenants when services were less than what would have been "reasonably expected under the circumstances".

VIII. Consideration of Allegations of Wrongful Evictions

3679 - 18th Street

N003-29E

The tenant and his roommates rented this three-bedroom unit from a previous landlord in November 1988. At the outset of the tenancy, the tenants informed the landlord of the need for maintenance and repair of various items and illegal electric charges for the 0269M

common area of the building. The landlord, however, sold the building and did not meet the conditions of the rental agreement. The new owners visited the property and discussed effectuating repairs on several occasions since acquiring title on March 26, 1993. At no time did the owner(s) indicate their intent to occupy the premises. The tenant has since been served with three notices to vacate based on owner-occupancy. The tenant questions the landlord's intent because the serving of the termination notices closely followed either Rent Board petitions filed by the tenant, complaints to the Bureau of Building Inspection, or similar exercises of the tenant's rights.

EVALUATION: On the advice of their attorney, the landlords failed to attend the hearing and provide testimony and evidence to demonstrate good faith and honest intent, nor did they otherwise cooperate with the Eviction Unit's investigatory efforts in this case. Therefore, the hearing officer and Eviction Unit found reasonable doubt regarding retaliation in this case.

RECOMMENDATION: An Unlawful Detainer action has been filed by the landlords against the tenants in Municipal Court. Therefore, the Eviction Unit Supervisor recommends sending a strong letter to the landlords, requesting an explanation and justification for their actions, but taking no further action pending the outcome of the court case.

It was the consensus of the Commissioners to accept staff's recommendations in this matter.

#### IX. Old Business

##### A. Attorneys' Fees under Ordinance Section 37.9(f)

The Commissioners received and approved the final version of the amicus brief that the Board will be filing in the case of Schneider v. Dervin (Superior Court No. 908127), currently pending before the First District Court of Appeal. The Board argues in the brief that, in order to strike a balance between frivolousness and reciprocity, a successful defendant in a wrongful eviction lawsuit would be entitled to attorney's fees unless the tenant's case was well grounded in facts and law.

##### B. Channing Amendments

Final language for possible amendments to the Rent Ordinance resulting from the Channing case involving the Berkeley Rent Board was distributed and approved by the Board. The issue concerns payments to tenants displaced as the result of an "Ellis" removal of a unit from housing use. The amendment limits payments to only those tenants who are low-income, elderly or disabled.

0269M



C. Hearsay Evidence

Discussion of the issue of hearsay evidence in Rent Board hearings was continued to the November 23rd meeting.

X. Remarks from the Public

Landlord Charles LaKamp addressed the Commissioners regarding his belief that the Ordinance needs to protect landlords as well as tenants, and stated that there needs to be a vehicle for increasing very low rents.

XI. Calendar Items

November 16, 1993 - NO MEETING

November 23, 1993

4 appeal considerations (2 cont. from 11/9/93)

6:00 Appeal Hearing: 2341 Market St. #5 0001-21A  
(acpt. 10/26/93)

Old Business:

A. 1381 Filbert St. (0001-19A) (heard 11/9/93)

B. Hearsay Evidence

November 30, 1993 - NO MEETING

XII. Adjournment

Vice-President Marshall adjourned the meeting at 9:40 p.m.



JILL SCHLICHTMANN  
PRESIDENT

POLLY MARSHALL  
VICE-PRESIDENT

NOTICE OF THE REGULAR MEETING OF THE SAN  
FRANCISCO RESIDENTIAL RENT STABILIZATION  
& ARBITRATION BOARD, Tuesday, 5:30 p.m.  
November 23, 1993

\*\*\*\*\*  
25 Van Ness Avenue, #70, Lower Level  
\*\*\*\*\*

\*\*\*\*\*  
AGENDA  
\*\*\*\*\*

FRANK M. JORDAN  
MAYOR

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

BARRIE BECKER  
LARRY B. BECKER  
MICHAEL COFFINO  
DAVID G. GRUBER  
MAMIE HOW  
MERRIE T. LIGHTNER  
KATHERINE NASH  
CATHERINE STEANE

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public
- V. Consideration of Appeals

- A. 2201 Laguna St. #207 0001-16R  
(cont. from 11/9/93)
- B. 1271 - 26th Avenue 0001-20R  
(cont. from 11/9/93)
- C. 111 Taylor St. #314 0001-24R
- D. 1440 Golden Gate Ave. #301 0001-31A

- VI. Communications
- VII. Director's Report
- VIII. Consideration of Allegations of Wrongful Evictions
- IX. Old Business

- A. 1381 Filbert St. 0001-19A (heard 11/9/93)
- B. Hearsay Evidence in Rent Board Hearings

- IV. Remarks from the Public (cont.)

- X. New Business

- XI. Appeal Hearing

- 6:00 2341 Market Street #5 0001-21A (acpt. 10/26/93)

- XII. Calendar Items

- IX. Adjournment

0268M

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## *ACCESSIBLE MEETING POLICY*

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JILL SCHLICHTMANN  
PRESIDENT

POLLY MARSHALL  
VICE-PRESIDENT

BARRIE BECKER  
LARRY B. BECKER  
MICHAEL COFFINO  
DAVID G. GRUBER  
MAMIE HOW  
MERRIE T. LIGHTNER  
KATHERINE NASH  
CATHERINE STEANE

MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO  
RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD

Tuesday, November 23, 1993 at 5:30 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level

\*\*\*\*\*

FRANK M. JORDAN  
MAYOR

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

I. Call to Order

President Schlichtmann called the meeting to order at 5:35 p.m.

II. Roll Call

|                        |   |
|------------------------|---|
| Commissioners Present: | L. Becker; Coffino; Gruber;<br>Lightner; Marshall; Nash;<br>Schlichtmann; Steane. |
| Staff Present:         | Grubb; Wolf.  |

Commissioner How appeared on the record at 5:45 p.m. Commissioner B. Becker appeared at 7:20 p.m. Commissioner L. Becker left the meeting at 7:50 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of November 9, 1993.  
(Lightner/L. Becker: 5-0)

IV. Consideration of Appeals

A. 2201 Laguna St. #207                      0001-16R (cont. from 11/9/93)

This case was settled and the appeal was withdrawn prior to the meeting.

B. 1271 - 26th Ave.                      0001-20R (cont. from 11/9/93)

The tenants' petition alleging unlawful increases in rent was denied by the hearing officer. The subject premises was rented by the tenants for use as a "group home" for the care of foster children. The hearing officer found that State law preempts the provisions of the Rent Ordinance because Section 1518 of the California Community Care Facilities Act specifically states that, as long as the unit is used as a licensed community care facility, it is exempted from "controls on rent imposed by any local agency or other local government or entity." On appeal, the tenants assert that: the facts do not support the conclusions of law and the decision; the decision violates petitioners' right to equal protection under the law and the Fair Housing Act; and the cited

Health and Safety Code section is unconstitutional. The case was continued from the meeting of November 9, 1993 in order ~~to staff~~ to read the cases cited in appellants' brief. At the meeting on November 23, 1993, the Deputy Director informed the Commissioners that a memo stating the State Department of Social Services Facilities Licensing division's policy on this matter was forthcoming.

MSC: To continue consideration of this matter for two additional weeks. (Marshall/L. Becker: 3-2; Gruber, Lightner dissenting)

C. 111 Taylor St. #314 0001-24R

The tenant's petition alleging a substantial decrease in housing services was dismissed by the hearing officer due to the tenant's failure to appear at the hearing. On appeal, the tenant asserts that she failed to receive notice of the hearing, and submits a "Declaration of Non-Receipt of Notice of Hearing" in support of her claim.

MSC: To accept the appeal and remand the case for a new hearing. (Marshall/Coffino: 4-1; Gruber dissenting)

D. 1440 Golden Gate Ave. #301 0001-31A

The tenant's petition alleging unlawful increases in rent was granted by the hearing officer, and the landlord was found liable to the tenant in the amount of \$4,666.64. On appeal, the landlord asserts that he had requested documentation of the tenant's rent history, which the tenant failed to provide in a timely fashion. The landlord maintains that the tenant's delay resulted in prejudice to him and constituted a waiver of the tenant's rights; he also alleges bias on the part of the hearing officer.

MSC: To excuse Commissioner Coffino from consideration of this appeal. (Marshall/Lightner: 5-0)

MSC: To deny the appeal. (Marshall/Schlichtmann: 3-2; Gruber, Lightner dissenting)

V. Appeal Hearing

2341 Market St. #5 0001-21A (acpt. 10/26/93)

The landlords' petition for certification of capital improvement costs was granted, in part, by the hearing officer. Costs for interior painting of one unit in the building and replacement of a refrigerator were disallowed as being in the nature of ordinary repair and maintenance. On appeal, the landlord argued against

these long-standing policy interpretations, maintaining that the Rent Board is standing in the way of reasonable agreements between landlords and tenants by not allowing such expenses to be amortized as capital improvement costs. At their meeting on October 26, 1993, the Commissioners voted to accept the landlord's appeal and schedule a Board hearing on the issue of whether interior painting of a unit should, under certain circumstances, be considered a capital improvement; and, if so, whether a capital improvement passthrough is warranted under the facts of this case.

The landlords' representative appeared at the appeal hearing; the tenant appeared and represented himself. Testimony focused on the policy reasons for considering interior painting of a unit a capital improvement or repair and maintenance; and the circumstances surrounding the interior painting of the instant unit. The tenant testified that his unit had not been painted for 17 years; that only his kitchen and bathroom were painted; and the paint job was thoroughly unprofessional, as evidenced by a BBI Notice of Violation requiring re-painting one year later. The landlord's representative did not dispute the adequacy of this particular paint job, but, instead, argued the underlying policy issues. After discussion, the Board passed the following motion:

MSC: To deny the appeal based on the facts presented in this case, which demonstrated that the interior painting of this unit did not constitute a capital improvement. (Coffino/Marshall: 5-0)

#### VI. Old Business

A. 1381 Filbert St. 0001-19A (heard 11/9/93)

This case, involving the validity of a rent increase due to the last "original" tenant having vacated the unit, was heard before the Board on November 9, 1993. At that meeting, as no neutral Commissioner was present, the Commissioners were unable to pass a motion as to whether or not a new tenancy had been established, justifying a rent increase to "market". Therefore, President Schlichtmann listened to the tapes of the original and Board hearings. It was her feeling that, as the testimony of both the landlord and the tenant was credible and there were equities on both sides, it would be preferable for the parties to settle the matter among themselves. The landlord, who was present at the meeting, indicated that settlement was a possibility. The Deputy Director will contact the parties and let them know that she would be available to facilitate a settlement if they so desired. The case was therefore continued to the December 7, 1993 meeting.

#### VII. Communications

The Commissioners received the monthly workload statistics for October.



VIII. Director's Report

Executive Director Grubb informed the Board that legislation amending the 5% interest requirement on security deposits was introduced by Supervisor Kennedy at the Government Efficiency Committee meeting that afternoon. He also invited the Commissioners to attend the staff Christmas Party at the Rent Board office on December 16th at noon. The Commissioners' Christmas Party will be held on December 19th at 4:00 p.m.; Mr. Grubb will issue a memo inviting staff to attend.

VI. Old Business (cont.)

B. Hearsay Evidence in Rent Board Hearings

The Commissioners discussed testimony and suggestions made by the public at the Public Hearing held on October 26, 1993. Commissioner Coffino volunteered the services of a law clerk with his firm to perform some additional research on this issue, and the matter was therefore continued.

IX. New Business

Deputy Director Wolf provided the Board members with a list of issues or problems for discussion. The Commissioners will prioritize the issues and commence discussion on these topics after the New Year.

X. Calendar Items

November 30, 1993 - NO MEETING

December 7, 1993

5 appeal considerations (1 cont. from 11/23/93)

Old Business:

- A. 1381 Filbert St. (0001-19A) (cont. from 11/23/93)
- B. Hearsay Evidence
- C. Ordinance & Regs. Changes

December 14, 1993

2 appeal considerations

December 21, 1993 - NO MEETING

December 28, 1993 - NO MEETING

XI. Adjournment

President Schlichtmann adjourned the meeting at 8:30 p.m.





JILL SCHLICHTMANN  
PRESIDENT

POLLY MARSHALL  
VICE-PRESIDENT

NOTICE OF THE REGULAR MEETING OF THE SAN  
FRANCISCO RESIDENTIAL RENT STABILIZATION  
& ARBITRATION BOARD, Tuesday, 5:30 p.m.  
December 7, 1993

\*\*\*\*\*

25 Van Ness Avenue, #70, Lower Level  
\*\*\*\*\*

AGENDA

\*\*\*\*\*

FRANK M. JORDAN  
MAYOR

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

BARRIE BECKER  
LARRY B. BECKER  
MICHAEL COFFINO  
DAVID G. GRUBER  
MAMIE HOW  
MERRIE T. LIGHTNER  
KATHERINE NASH  
CATHERINE STEANE

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public
- V. Consideration of Appeals
  - A. 1271 - 26th Ave. 0001-20R  
(cont. from 11/23/93)
  - B. 743 Polk St. #401 0001-32A
  - C. 385-B Richland Ave. 0001-33A
  - D. 478 Warren Dr. #720 0001-25R
  - E. 2711 Bryant St. 0001-26R
- VI. Communications
- VII. Director's Report
- VIII. Consideration of Allegations of Wrongful Evictions
  - 4220 Army St. N002-77E
- IX. Old Business
  - A. 1381 Filbert St. 0001-19A  
(cont. from 11/23/93)
  - B. Hearsay Evidence in Rent Board Hearings
  - C. Ordinance and Rules Changes
- IV. Remarks from the Public (cont.)
- X. New Business
- XII. Calendar Items
- IX. Adjournment

0271M

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There is accessible parking available on adjacent streets (Oak Street and Hickory). Metered street parking is also available.

# City and County of San Francisco

# Residential Rent Stabilization and Arbitration Board



## MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD

Tuesday, December 7, 1993 at 5:30 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level

\*\*\*\*\*

FRANK M. JORDAN  
MAYOR

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

JILL SCHLICHTMANN  
PRESIDENT

POLLY MARSHALL  
VICE-PRESIDENT

### I. Call to Order

President Schlichtmann called the meeting to order at 5:40 p.m.

### II. Roll Call

BARRIE BECKER

LARRY B. BECKER

MICHAEL COFFINO

DAVID G. GRUBER

MAMIE HOW

MERRIE T. LIGHTNER

KATHERINE NASH

CATHERINE STEANE

Commissioners Present:

B. Becker; Coffino; Gruber;  
Lightner; Marshall; Nash;  
Schlichtmann.

Commissioners not Present:

L. Becker; How; Steane.

Staff Present:

Grubb; Wolf.

### III. Approval of the Minutes

MSC: To approve the Minutes of November 23, 1993 with the following correction: on the issue of Hearsay Evidence in Rent Board Hearings, the Minutes should reflect that Commissioner Coffino volunteered to check with his firm as to the availability of an associate to conduct additional research on this issue.  
(Marshall/Gruber: 5-0)

### IV. Consideration of Appeals

A. 1271 - 26th Ave.

0001-20R

(cont. from 11/23/93)

The tenants' petition alleging unlawful increases in rent was denied by the hearing officer. The subject premises was rented by the tenants for use as a "group home" for the care of foster children. The hearing officer found that State law preempts the provisions of the Rent Ordinance because Section 1518 of the California Community Care Facilities Act specifically states that, as long as the unit is used as a licensed community care facility, it is exempted from "controls on rent imposed by any local agency or other local government or entity." On appeal, the tenants assert that: the facts do not support the conclusions of law and the decision; the decision violates petitioners' right to equal protection under the law and the Fair Housing Act; and the cited Health and Safety Code section is unconstitutional. The case was continued from the November 9th and November 23rd meetings in

order to read the cases cited in appellants' brief and to obtain information regarding the State Department of Social Services' (DSS) policy on this issue. After discussion, it was the consensus of the Commissioners to continue the case for one additional week in order to obtain clarification as to the basis for DSS's interpretation of State law.

B. 743 Polk St. #401 0001-32A

The tenant's petition alleging a substantial decrease in housing services was granted, in part, by the hearing officer. The landlord was found liable to the tenant in the amount of \$280.00 due to lack of a secure front door and lock and lack of a secure and operational window. The landlord failed to appear at the hearing, and maintains on appeal that he failed to receive the Notice of Rescheduled Hearing, although there is no indication in the file that a hearing had been scheduled and then postponed. He also alleges that the tenant failed to allow entry in order for repairs to be effectuated. After discussion, it was the consensus of the Commissioners to continue this case for one week in order for the landlord to provide a copy of the original Notice of Hearing.

C. 385-B Richland Ave. 0001-33A

The tenant's petition alleging decreased housing services was granted and the landlord was found liable to the tenant in the amount of \$1,500.00 due to water leaks and other disruptions resulting from a prolonged period of repair and reconstruction of his unit. The landlord appeals, alleging that: the tenant failed to meet his burden of proof, as he produced no evidence or documentation to support his claims; the hearing officer was incorrect as to the facts; and that the tenant had requested the repairs and participated in decision-making throughout the construction project.

MSC: To deny the appeal. (Marshall/B. Becker: 4-1;  
Gruber dissenting)

D. 478 Warren Dr. #720 0001-25R

The tenant's petition alleging a substantial decrease in housing services was granted, in part, by the hearing officer. The landlord was found liable to the tenant in the amount of \$200.00 for lack of heat during a four-month period. The tenant's claim that the replacement heater in the bedroom is sufficiently noisy to warrant a rent reduction was denied. On appeal, the tenant alleges that the bedroom heater is intolerably noisy and that the BBI inspector was intimidated by property management to find the problem abated when it was not.  
0272M

MSC: To deny the appeal. (Lightner/Marshall: 5-0)

E. 2711 Bryant St. 0001-26R

The landlord's petition for certification of capital improvement costs was granted by the hearing officer. The tenant appeals the \$8.52 passthrough on the basis of financial hardship. As the tenant failed to furnish any documentation regarding her income and resources, which was requested in a letter from the Deputy Director, the following motion was made:

MS: To deny the appeal. (Lightner/Gruber)

After discussion, it was the consensus of the Commissioners to continue the matter for one week in order for staff to attempt to contact the tenant and obtain additional information.

V. Communications

The Commissioners received a copy of recently enacted Senate Bill 444, which provides for an increase in penalties to \$600 for bad faith retention of a security deposit; the legislation also provides that deposits must be returned within 3 weeks of the tenant's having vacated the unit.

VI. Director's Report

Executive Director Grubb informed the Commissioners as follows:

A. The Rent Board is now "on-line" on cable channel 54.

B. Donations for the S.F. Food Bank would be appreciated at the next meeting.

VII. Consideration of Allegations of Wrongful Evictions

4220 Army Street

N002-77E

This case involves a building which contained 38 residential units, two of which were illegal. Pursuant to a BBI inspection, the landlords were required to legalize or remove the illegal units. After attempts at zoning reclassification were unsuccessful, the landlords served the tenants with a Notice to Vacate based on permanent removal of the unit (Section 37.9(a)(10)). The tenants had resided in the subject unit for 13 years, and questioned the landlords' motives. The tenants also alleged that, as their unit was going to be combined with an adjacent legal unit in the building, the eviction should be of a temporary nature, for the period during which the reconfiguration work was being done (Section 37.9(a)(10)). The hearing officer 0272M



found that, although there was no perfect "fit" for this situation in the Rent Ordinance, as the unit was permanently eliminated as it existed at the time of the eviction, Section 37.9(a)(10) was the most logical remedy for the landlords. Therefore, no wrongful eviction was found and the tenants were not entitled to reoccupancy rights and moving expenses. The Hearing Officer and the Eviction Unit Supervisor wished the Board to take no further action in this matter, but to consider amending the Ordinance and/or Rules and Regulations to clarify the rights and responsibilities of landlords and tenants in situations similar to the one presented in this case.

#### VIII. Old Business

##### A. 1381 Filbert St.

0001-19A

(cont. from 11/23/93)

This case, involving the validity of a rent increase due to the last "original" tenant having vacated the unit, was heard before the Board on November 9, 1993. At that meeting, as no neutral Commissioner was present, the Commissioners were unable to pass a motion as to whether or not a new tenancy had been established, justifying a rent increase to "market". Therefore, President Schlichtmann listened to the tapes of the original and Board hearings and suggested that the parties engage in settlement negotiations. The Deputy Director reported that she had been assisting the parties in working out a settlement, that significant progress was being made, and the Commissioners therefore agreed to continue this matter for one additional week.

##### B. Hearsay Evidence in Rent Board Hearings

The Commissioners continued their discussion of the problem of hearsay evidence in Rent Board hearings. Commissioner Coffino volunteered to do some additional research on this issue and the matter was therefore continued.

##### C. Ordinance and Rules Changes

The Commissioners briefly discussed a list of issues for discussion that was distributed at last week's meeting. The Deputy Director will provide an updated list for prioritization after the New Year.

#### IX. New Business

The Executive Director discussed a letter from Al Goodwin to the Commissioners, commenting on a case where an operating expense increase had been denied due to lack of adequate documentation, and a response memo from Senior Hearing Officer Sandra Gartzman. 0272M

X. Remarks from the Public

A. Charles LaKamp expressed his beliefs that: in the case concerning 1271 26th Avenue, the Board needed to focus on the business relationship; that in the 1381 Filbert Street case, the tenant in that case could probably have additional room-mates because of the "Gonzales amendment"; regarding hearsay, parties should be viewed as credible until proven otherwise; and property owners need to be protected as much as tenants.

B. Al Goodwin commented that, as pertains to hearsay evidence, leaving determinations of credibility up to the Hearing Officers' discretion would allow for a great deal of unfairness.

XI. Calendar Items

December 14, 1993

9 appeal considerations (3 cont. from 12/7/93)

Old Business:

- A. 1381 Filbert St. (0001-19A) (cont. from 12/7/93)
- B. Hearsay Evidence
- C. Ordinance & Regs. Changes

December 21 & 28, 1993 - NO MEETINGS (HAPPY HOLIDAYS!)

XII. Adjournment

President Schlichtmann adjourned the meeting at 7:40 p.m.





# City and County of San Francisco

## Residential Rent Stabilization and Arbitration Board



JILL SCHLICHTMANN  
PRESIDENT

POLLY MARSHALL  
VICE-PRESIDENT

NOTICE OF THE REGULAR MEETING OF THE SAN  
FRANCISCO RESIDENTIAL RENT STABILIZATION  
& ARBITRATION BOARD, Tuesday, 5:30 p.m.  
December 14, 1993

FRANK M. JORDAN  
MAYOR

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

25 Van Ness Avenue, #70, Lower Level

### AGENDA

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I. Call to Order

BARRIE BECKER

II. Roll Call

LARRY B. BECKER

MICHAEL COFFINO

III. Approval of the Minutes

DAVID G. GRUBER

MAMIE HOW

IV. Remarks from the Public

MERRIE T. LIGHTNER

KATHERINE NASH

CATHERINE STEANE

V. Consideration of Appeals

|                           |                               |
|---------------------------|-------------------------------|
| A. 1271 - 26th Ave.       | 0001-20R (cont. from 12/7/93) |
| B. 743 Polk St. #401      | 0001-32A (cont. from 12/7/93) |
| C. 2711 Bryant St.        | 0001-26R (cont. from 12/7/93) |
| D. 621-623 Taraval St.    | 0001-34A                      |
| E. 1261A - 17th Ave.      | 0001-27R                      |
| F. 999 Green St. #1003    | 0001-35A                      |
| G. 433 Waller St.         | 0001-37A                      |
| H. 641 O'Farrell St. #706 | 0001-36A                      |
| I. Parkmerced             | 0001-28R thru 0001-33R        |

VI. Communications

VII. Director's Report

VIII. Consideration of Allegations of Wrongful Evictions

24 Alder St. N003-01E and 0001-01E

IX. Old Business

|  |                               |
|--|-------------------------------|
| A. 1381 Filbert St.                                    | 0001-19A (cont. from 12/7/93) |
| B. Hearsay Evidence in Rent Board Hearings             |                               |
| C. Ordinance and Rules Changes: Issues for Discussion. |                               |
| D. Sunshine Ordinance                                  |                               |

IV. Remarks from the Public (cont.)

X. New Business

XI. Calendar Items

XII. Adjournment

0273M

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Rent Board Commission meetings are held at 25 Van Ness Avenue, Suite 70, lower level, and are wheelchair accessible. The closest accessible BART station is located at Civic Center. Accessible MUNI lines serving this location are the 42 Downtown Loop, the 71 Haight/Noriega and the MUNI Metro at Van Ness and Market Street. For information about MUNI accessible services call 923-6142.

There is accessible parking available on adjacent streets (Oak Street and Hickory). Metered street parking is also available.

FRANK M. JORDAN  
MAYORJOSEPH GRUBB  
EXECUTIVE DIRECTORJILL SCHLICHTMANN  
PRESIDENTMINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO  
RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD  
Tuesday, December 14, 1993 at 5:30 p.m. at  
25 Van Ness Avenue, Suite 70, Lower LevelPOLLY MARSHALL  
VICE-PRESIDENT

\*\*\*\*\*

I. Call to OrderBARRIE BECKER  
LARRY B. BECKER

Vice-President Marshall called the meeting to order at 5:35 p.m.

MICHAEL COFFINO  
DAVID G. GRUBERII. Roll CallMAMIE HOW  
MERRIE T. LIGHTNER  
KATHERINE NASH  
CATHERINE STEANE

|                            |  |
|----------------------------|--|
| Commissioners Present:     | Coffino; Gruber; How; Lightner;<br>Marshall; Nash; Steane. |
| Commissioners not Present: | B. Becker; L. Becker;<br>Schlichtmann.                     |
| Staff Present:             | Grubb; Wolf.   |

III. Approval of the MinutesMSC: To approve the Minutes of December 7, 1993.  
(Gruber/Lightner: 4-0)IV. Consideration of Appeals

A. 1271 - 26th Ave. 0001-20R (cont. from 12/7/93)

The tenants' petition alleging unlawful increases in rent was denied by the hearing officer. The subject premises was rented by the tenants for use as a "group home" for the care of foster children. The hearing officer found that State law preempts the provisions of the Rent Ordinance because Section 1518 of the California Community Care Facilities Act specifically states that, as long as the unit is used as a licensed community care facility, it is exempted from "controls on rent imposed by any local agency or other local government or entity." On appeal, the tenants assert that: the facts do not support the Conclusions of Law and the Decision; the Decision violates petitioners' right to equal protection under the law and the Fair Housing Act; and the cited Health and Safety Code section is unconstitutional. The case was continued from the November 9th, November 23rd and December 7th meetings in order to read the cases cited in appellants' brief, to obtain information regarding the State Department of Social Services' (DSS) policy on this issue, and to obtain the legislative history of the Statute.

## *ACCESSIBLE MEETING POLICY*

American sign language interpreters will be available upon request. Please contact the Rent Board at 554-9558, at least 72 hours prior to the meeting. Late requests will be honored if possible.

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There is accessible parking available on adjacent streets (Oak Street and Hickory). Metered street parking is also available.

MSC: To find that Rent Board jurisdiction over this property is not preempted by State law and to remand the case to the same hearing officer to render a decision based on the Rent Ordinance as to all issues raised in the Decision of Hearing Officer issued on September 30, 1993. (Coffino/Marshall: 4-0)

B. 743 Polk St. #401

0001-32A (cont. from 12/7/93)

The tenant's petition alleging a substantial decrease in housing services was granted, in part, by the hearing officer. The landlord was found liable to the tenant in the amount of \$280.00 due to lack of a secure front door and lock and lack of a secure and operational window. The landlord failed to appear at the hearing, and maintained on appeal that he failed to receive the Notice of Rescheduled Hearing, although there is no indication in the file that a hearing had been scheduled and then postponed. He also alleges that the tenant failed to allow entry in order for repairs to be effectuated. This case was continued from the December 7th meeting in order for the landlord to provide a copy of the original Notice of Hearing. Instead, the landlord provided a letter stating that he had been informed over the phone that his oral request for a postponement would be granted and a new hearing date would be scheduled.

MSC: To accept the landlord's appeal and remand the case to the same hearing officer for a new hearing.  
(Coffino/Lightner: 4-0)

C. 2711 Bryant St.

0001-26R

The landlord's petition for certification of capital improvement costs was granted by the hearing officer. The tenant appeals the \$8.52 passthrough on the basis of financial hardship. As the tenant failed to furnish any documentation regarding her income and resources, the case was continued from the December 7th meeting in order for staff to contact the tenant and obtain additional information. The Deputy Director informed the Board that information provided by the tenant had, apparently, been misplaced, and the Commissioners therefore agreed to further continue this matter until the January 4, 1994 meeting.

D. 621-623 Taraval St.

0001-34A

The landlord's petition for certification of capital improvement costs was granted by the hearing officer. However, a rent increase imposed in September, 1992, was determined to be unlawful and the landlord was found liable to the tenant in the amount of \$2,100.00. On appeal, the landlord asserts that, contrary to the hearing officer's assumption, the increase was not wrongfully compounded due to banking. Rather, rent increases had been issued that were inadvertently not reflected in the "Rent Increase History" section of the landlord's petition.

0274M



MSC: To accept the appeal and remand the case to the same hearing officer on the issue of the rent history only.  
(Gruber/Lightner: 4-0)

E. 1261A - 17th Ave. 0001-27R

The tenant's petition alleging an unlawful rent increase was dismissed due to the tenant's failure to appear at the hearing. The tenant appeals, alleging that she had agreed to withdraw her petition on the basis of a settlement agreement with the landlord, but she now wishes to reinstitute her petition as the landlord has not complied with the terms of the parties' settlement. After discussion, it was the consensus of the Commissioners to continue this case in order for staff to contact the parties and attempt to get them to settle this matter.

G. 433 Waller St. 0001-37A

The tenant's petition alleging decreased housing services was granted, in part, by the hearing officer and the landlord was found liable to the tenant in the amount of \$175.00 due to a malfunctioning refrigerator and a plumbing problem which caused water from a downstairs unit to back up into the tenant's sink. The landlord was also found liable to the tenant in the amount of \$3,116.49 due to capital improvement passthroughs having been improperly included in base rent. The landlord appeals, alleging that: the issue of improper rent increases was not raised in the tenant's petition, and therefore was not properly before the hearing officer; when he realized that the rent increases were improper, the landlord acted to refund overpaid rent plus interest; and that the defective refrigerator was replaced on August 30, 1993, whereas the rent reductions were ordered through November, 1993.

After discussion, it was the consensus of the Board to continue this case to the January 4, 1994 meeting in order for staff to check the rent overpayment calculations. Additionally, the decision will be corrected to state that if the refrigerator was fixed subsequent to the hearing, the rent reduction should cease as of that date.

H. 641 O'Farrell St. #706 0001-36A

The tenant's petition alleging decreased housing services was granted, in part, by the hearing officer and the landlord was found liable to the tenant in the amount of \$845.00 due to inadequate security, non-operational elevators, and lack of pest control. The landlord appeals, alleging that Landmark Realty was sent notice of the hearing, but failed to appear because this entity was neither the owner nor the management company at the time the case was filed. The appellant alleges that Robert Imhoff was and is the actual owner of the property, and that Mr. Imhoff is not subject to Rent Board jurisdiction at this time because of a stay due to bankruptcy proceedings.  
0274M



MSC: To accept the appeal and remand the case to the same hearing officer to determine who is the actual owner of the property, and if the owner is in bankruptcy.  
(Lightner/Coffino: 4-0)

I. Parkmerced 0001-28R through 0001-33R

This case involves five petitions for certification of capital improvement costs incurred for the installation of new windows throughout this multi-unit complex. The landlord and the majority of the tenants reached a settlement in this matter, wherein the amount of the passthrough was substantially reduced. The tenants in six units appeal imposition of the reduced passthrough amount on the basis of financial hardship. As several of the tenants did not provide sufficient financial information, or the information provided was as to adjusted gross income, this matter was continued to the January 4, 1994 meeting.

V. Communications

The Commissioners received the appeal decision regarding the property at 499 Alabama Street #323 (Project Artaud, Appeal No. 0001-04A), which was conditionally approved by the Board and signed by Vice-President Marshall.

VI. Director's Report

Executive Director Grubb informed the Commissioners that legislation amending the 5% interest requirement on security deposits, introduced by Supervisor Kennedy, was continued this afternoon by the Government Efficiency Committee.

VII. Consideration of Allegations of Wrongful Evictions

24 Alder St. N003-01E and 0001-01E

This case involves a series of interactions between a master tenant, acting in the capacity of landlord, and two tenants. There have been several prior Rent Board cases involving these parties, resulting in hearing officer's decisions ordering rent reductions for substantially decreased housing services, and the master tenant's serving the tenants with 3-Day Notices to Pay Rent or Quit after they had paid the amounts authorized by the decisions. The master tenant is an alcoholic, has a volatile temperment, and has attacked subtenants and members of his family who reside in the unit. After having been arrested and ordered into an alcohol rehab program, the master tenant's behavior has improved, and the tenants in these cases have vacated the unit. The Commissioners therefore concurred with the recommendations of the hearing officer and Eviction Unit Supervisor that a strong, cautionary letter be sent to the master tenant. Additionally, staff will confer with the City Attorney regarding sending a copy of this letter to the owner of the property.

VIII. Old Business

A. 1381 Filbert St. 0001-19A (cont. from 12/7/93)

The Deputy Director informed the Commissioners that the parties to this case, involving the validity of a rent increase due to the last "original" tenant having vacated the unit, had reached a settlement. Once the agreement is finalized, the tenant will withdraw her appeal.

B. Hearsay Evidence in Rent Board Hearings

The Board continued their discussion of the problem of hearsay evidence in Rent Board hearings. The discussion focused on the recent case of Houghtaling v. Superior Court, which held that, with respect to relevant hearsay evidence, the rules of evidence do not apply in small claims proceedings. This matter was continued to the January 4, 1994 meeting in order for all of the Commissioners to read the case.

C. Ordinance and Rules Changes

The Deputy Director provided an updated list of issues for discussion. The Commissioners discussed the desirability of effecting a Rules change giving the Board the discretion to limit testimony at Public Hearings to no more than three minutes' duration prior to holding Public Hearings on controversial issues.

D. Sunshine Ordinance

The Executive Director reminded the Board that the Sunshine Ordinance goes into effect on December 16, 1993. Major provisions of the law that will effect the Rent Board include: the Board will have to vote before going into Executive Session; the Board will have to vote on whether or not to disclose the contents of any discussion or action taken in Executive Session; and Agendas of Board meetings will have to provide more detail as to subject matter.

IX. Calendar Items

December 21 & 28, 1993 - NO MEETINGS (HAPPY HOLIDAYS!)

January 4, 1994

9 appeal considerations (4 cont. from 12/14/93)

Old Business:

A. Hearsay Evidence

B. Ordinance & Regs. Changes

X. Adjournment

Vice-President Marshall adjourned the meeting at 7:30 p.m.

0274M

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